EXHIBIT 1

[CONFORMED COPY]

PARTICIPATION AGREEMENT

(AEGCO Trust 1)

dated as of March 15, 1989

among

AEP GENERATING COMPANY,
as Lessee,

PHILIP MORRIS CREDIT CORPORATION,
as Owner Participant,

RGS FUNDING CORPORATION,
as Funding Corporation,

WILMINGTON TRUST COMPANY,
in its individual capacity and as Owner Trustee,

THE CONNECTICUT NATIONAL BANK,
in its individual capacity and as Indenture Trustee,

and

THE ORIGINAL LOAN PARTICIPANTS
becoming parties hereto pursuant to Section 2.02

Sale and Leaseback of an Undivided Interest in

Rockport Generating Station Unit 2

and

Sublease of Unit 2 Site Interest

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PARTICIPATION AGREEMENT

PARTICIPATION AGREEMENT (AEGCO Trust 1) dated as of March 15, 1989, among AEP GENERATING COMPANY, an Ohio corporation, as Lessee, PHILIP MORRIS CREDIT CORPORATION, a Delaware corporation as Owner Participant, RGS FUNDING CORPORATION, a Delaware corporation, as Funding Corporation, WILMINGTON TRUST COMPANY, a Delaware banking corporation, in its individual capacity and as Owner Trustee, THE CONNECTICUT NATIONAL BANK, a national banking association, in its individual capacity and as Indenture Trustee, and the ORIGINAL LOAN PARTICIPANTS becoming parties hereto pursuant to Section 2.02.

WHEREAS, the Owner Participant and the Owner Trustee have entered into the Trust Agreement for the purpose of creating the Trust and entering into the transactions contemplated by this Agreement;

WHEREAS, the Lessee desires (i) to sell the Undivided Interest to the Owner Trustee by delivering the Purchase Documents against receipt of the Purchase Price and (ii) to lease the Unit 2 Site Interest and grant the Easements and certain other rights to the Owner Trustee by entering into the Ground Lease;

WHEREAS, the Owner Participant desires to cause the Owner Trustee (i) to purchase the Undivided Interest from the Lessee by paying the Purchase Price and accepting delivery of the Purchase Documents and (ii) to lease the Unit 2 Site Interest and accept the grant of the Easements and other rights from the Lessee by entering into the Ground Lease;

WHEREAS, the Owner Participant desires to cause the Owner Trustee to lease the Undivided Interest and sublease the Unit 2 Site Interest to the Lessee by entering into the Lease;

WHEREAS, the Lessee desires to lease the Undivided Interest and sublease the Unit 2 Site Interest from the Owner Trustee by entering into the Lease;

WHEREAS, the Owner Participant and the Owner Trustee desire that a portion of the Purchase Price to be paid by the Owner Trustee for the Undivided Interest be financed with the proceeds of the Initial Series Notes;

WHEREAS, pursuant to the terms and provisions of the Indenture, the Owner Trustee will authorize the creation, issuance, sale and delivery of the Initial Series Notes and the granting of security therefor, and the Indenture Trustee will authenticate the Initial Series Notes;

WHEREAS, the Original Loan Participants, upon becoming parties to this Agreement, will agree to purchase the Initial Series Notes pursuant to this Agreement and the Indenture;

WHEREAS, the Initial Series Notes will be subject to prepayment upon the occurrence of certain events, including prepayment with the proceeds of Refunding Notes to be issued by the Owner Trustee under the Indenture;

WHEREAS, the Lessee desires Funding Corporation to commit and Funding Corporation is willing to commit, upon the occurrence of certain events, to create, issue, grant security for, and, after authentication thereof by the Collateral Trust Trustee, sell and deliver Bonds in public or private offerings, to use the proceeds of the sale thereof to purchase Refunding Notes issued by the Owner Trustee under the Indenture, and to pledge all Refunding Notes so purchased to the Collateral Trust Trustee to be held as security for such Bonds under the Collateral Trust Indenture, all pursuant to this Agreement, the Collateral Trust Indenture and the Indenture;

WHEREAS, the Owner Participant desires to cause the Owner Trustee to acquire certain rights and to assume certain obligations in connection with the operation and maintenance of Unit 2 after the Lease Termination Date by entering into the Unit 2 Operating Agreement; and

WHEREAS, the Lessee and the Operator desire to grant certain rights and to transfer certain obligations to the Owner Trustee in connection with the operation and maintenance of Unit 2 after the Lease Termination Date by entering into the Unit 2 Operating Agreement;

Now, THEREFORE, in consideration of the premises and of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

For purposes of this Agreement, capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in Appendix A (such definitions to be equally applicable to both the singular and plural forms of the terms defined). Any term defined by reference to an agreement, instrument or other document shall have the meaning so assigned to it whether or not such document is in effect. Unless otherwise indicated, references in this Agreement to articles, sections, paragraphs, clauses, appendices, schedules and exhibits are to the same contained in or attached to this Agreement.

ARTICLE II

PARTICIPATION IN SALE AND LEASEBACK OF UNDIVIDED INTEREST

SECTION 2.01. **Participation by Owner Participant.** Subject to the conditions set forth in Section 3.01, on the Closing Date the Owner Participant shall participate in the payment of the Purchase Price for the Undivided Interest to be purchased by the Owner Trustee by making an equity investment in the beneficial ownership of the Undivided Interest (the *"Investment"*) in an amount equal to the product of (i) the Owner Participant's Percentage and (ii) the Purchase Price. The amount of the Investment is hereinafter called the *"Investment Amount"*. The Owner Participant shall make the Investment by transferring the Investment Amount in immediately available funds to an account of the Owner Trustee (to be specified by the Owner Trustee to the Owner Participant and the Original Loan Participants prior to the Closing Date) maintained at The Bank of New York, New York, New York, or at such other place as the Owner Trustee shall specify to the Owner Participant and the Original Loan Participants, before 1:00 p.m., New York City time, on the Closing Date.

SECTION 2.02. **Addition of Original Loan Participants as Parties hereto.** The Owner Trustee and the Owner Participant hereby authorize and direct the Lessee and its agents (who may include Goldman Sachs), on behalf of the Owner Trustee, to arrange for one or more commercial banks or other financial institutions, acceptable to the Owner Participant, to become parties to this Agreement as Original Loan Participants. Upon the execution and delivery of the Participation Agreement Supplement by the Lessee, the Owner Participant and such banks and/or other financial institutions, each such bank or other financial institution (i) shall become a party to this Agreement as an Original Loan Participant, (ii) shall enjoy all of the rights of an Original Loan Participant under this Agreement and the other Transaction Documents and (iii) shall assume all of the obligations of an Original Loan Participant under this Agreement and the other Transaction Documents, including (without limitation) the obligation to make a secured loan on the Closing Date to the Owner Trustee pursuant to the provisions of Section 2.03.

SECTION 2.03. **Participation by Original Loan Participants.** Subject to the conditions set forth in Section 3.01, on the Closing Date each Original Loan Participant shall participate in the payment of the Purchase Price for the Undivided Interest to be purchased by the Owner Trustee by making a secured loan to the Owner Trustee (a *"Loan"*) in an amount equal to the product of (i) such Original Loan Participant's Percentage and (ii) the Purchase Price. Each Loan shall be evidenced by an Initial Series Note (or Initial Series Notes) of like principal amount (or like aggregate principal amount) issued in the name of the Original Loan Participant making such Loan or its designee. The obligation of each Original Loan Participant to make a Loan in the amount specified above is hereinafter called such *"Original Loan Participant's Commitment"*. Each Original Loan Participant shall make its Loan by transferring the amount thereof in immediately available funds to the account of the Owner Trustee referred to in Section 2.01, or at such other place as the Owner Trustee shall specify pursuant to Section 2.01, before 1:00 p.m., New York City time, on the Closing Date.

SECTION 2.04. Time and Place of Closing. On or prior to the Closing Date, the Lessee shall deliver the Notice of Closing to the Owner Participant, each Original Loan Participant, the Owner Trustee and the Indenture Trustee. The Closing shall take place beginning at 10:00 a.m., New York City time, on the Closing Date, at the offices of Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, New York 10017-3909.

SECTION 2.05. Transactions To Occur on Closing Date. On the Closing Date, subject to the fulfillment or waiver of the conditions precedent set forth in Article III:

(a) the Lessee (i) by executing and delivering the Bill of Sale and the other Purchase Documents, shall assign, set over, sell and deliver to the Owner Trustee all its right, title and interest in and to the Undivided Interest, (ii) by executing and delivering the Ground Lease, shall lease the Unit 2 Site Interest and grant the Easements and certain other rights to the Owner Trustee, (iii) by executing and delivering the Lease, shall lease the Undivided Interest and sublease the Unit 2 Site Interest back from the Owner Trustee, and (iv) by executing and delivering the Unit 2 Operating Agreement, shall grant certain rights and transfer certain obligations to the Owner Trustee in connection with the operation and maintenance of Unit 2 after the Lease Termination Date;

(b) the Owner Trustee (i) by executing and delivering the Indenture, shall grant security for the Initial Series Notes and any Additional Notes that may be issued from time to time, (ii) by creating, issuing and, after authentication thereof by the Indenture Trustee, selling and instructing the Indenture Trustee to deliver the Initial Series Notes, shall borrow from the Original Loan Participants an amount equal to the aggregate of the Original Loan Participants' Commitments, (iii) with the proceeds of the Loans made by the Original Loan Participants and of the Investment made by the Owner Participant, shall purchase all right, title and interest of the Lessee in and to the Undivided Interest by transferring an amount equal to the Purchase Price in accordance with the instructions set forth in the Notice of Closing and accepting delivery of the Bill of Sale and the other Purchase Documents, (iv) by executing and delivering the Ground Lease, shall lease the Unit 2 Site Interest and accept the grant of the Easements and other rights from the Lessee, (v) by executing and delivering the Lease, shall lease the Undivided Interest and sublease the Unit 2 Site Interest to the Lessee, and (vi) by executing and delivering the Unit 2 Operating Agreement, shall acquire certain rights and assume certain obligations of the Lessee in connection with the operation and maintenance of Unit 2 after the Lease Termination Date;

(c) the Indenture Trustee shall execute and deliver the Indenture and shall authenticate and deliver the Initial Series Notes; and

(d) the Owner Participant shall make the Investment and authorize and direct the Owner Trustee to take the actions specified in clause (b) above, and the Original Loan Participants shall make the Loans against delivery of the Initial Series Notes.

SECTION 2.06. Refunding. (a) *Refunding of Initial Series Notes.* The Original Loan Participants, the Owner Participant, the Owner Trustee and the Lessee agree that, notwithstanding the stated maturity of the Initial Series Notes, it is the intention of such parties that such Notes will remain outstanding for not more than two years, and that such Notes will be refunded in full (though not necessarily all at one time) before December 31, 1991. Accordingly, the Owner Participant agrees that, prior to such date, subject to the fulfillment on or before each Refunding Date of the conditions set forth in Section 2.06(e) that are not to be performed or complied with by the Owner Participant or the Owner Trustee, the Owner Participant shall cause the Owner Trustee to refund the Initial Series Notes in full with the proceeds of Refunding Loans made at one time or from time to time to the Owner Trustee. The proceeds of such Refunding Loans shall be paid directly to the Indenture Trustee at the Indenture Trustee's Office in immediately available funds. Such Refunding Loans shall be evidenced by one or more tranches or series of Refunding Notes of a credit quality comparable to the long term securities of public utilities of size and credit quality similar to the Lessee, which Notes shall be issued by the Owner Trustee and authenticated by the Indenture Trustee under and pursuant to the Indenture, shall be in an aggregate principal amount equal to such Refunding Loans, shall have a weighted average life to maturity of approximately 23 years, shall have a final maturity which shall be no later than the 33rd anniversary of the Closing Date, shall bear interest at a fixed rate or fixed rates per annum and shall be payable as set forth in or determined under the Indenture.

The Owner Participant further agrees that, in connection with the refunding of the Initial Series Notes, it shall engage the services of Goldman Sachs or another investment banking firm acceptable to the Lessee to obtain commitments to make Refunding Loans meeting the requirements of the preceding paragraph, and that it shall act on the advice of Goldman Sachs or such other investment banking firm in determining, consistent with the requirements of the preceding paragraph, the appropriate time or times to effect any such refunding and the terms and conditions of the Refunding Notes to be issued in connection therewith, including, without limitation, the number of tranches or series of such Refunding Notes, the interest rate or rates applicable thereto (which shall be reflective of actual market conditions) and the amortization schedules applicable to the tranches or series of such Refunding Notes, so as to minimize the amounts of the installments of Basic Rent payable by the Lessee during the Basic Lease Term, while preserving the Owner Participant's Initial Theoretical Return. Any refunding of Initial Series Notes effected pursuant to this Section 2.06(a) shall be at the expense of the Lessee and, if requested by the Owner Participant, with the Lessee's assistance.

In the case of any refunding of Initial Series Notes, the adjustment of the percentages for Basic Rent, Stipulated Loss Value and Termination Value pursuant to Section 3(d) of the Lease shall be effected in such a manner as to provide to the Lessee, consistent with the requirements of Section 3(d) of the Lease, the net savings in interest expense, if any, accruing as a result of such refunding.

(b) *Refunding of Additional Notes.* The Owner Participant may at any time and from time to time, at its option and expense, cause the Owner Trustee to refund all or a portion (not less than $8,000,000 aggregate principal amount) of the Additional Notes Outstanding with the proceeds of Refunding Loans, *provided* that each such refunding shall be subject to the fulfillment on or before the applicable Refunding Date of the conditions set forth in Section 2.06(e) that are not to be performed or complied with by the Owner Participant or the Owner Trustee, and that no refunding pursuant to this Section 2.06(b) shall occur (i) so long as any Initial Series Notes are Outstanding, (ii) if a prior refunding pursuant to this Section 2.06(b) shall have occurred within the preceding 24 months, (iii) if four refundings pursuant to this Section 2.06(b) shall have occurred or (iv) if, through the adjustments contemplated by Section 3(d) of the Lease, such refunding would result in any increase in the Basic Rent, Stipulated Loss Value or Termination Value payable by the Lessee under the Lease. The proceeds of such Refunding Loans shall be paid directly to the Indenture Trustee at the Indenture Trustee's Office in immediately available funds. Such Refunding Loans shall be evidenced by one or more tranches or series of Refunding Notes, which Notes shall be issued by the Owner Trustee and authenticated by the Indenture Trustee under and pursuant to the Indenture, shall be in an aggregate principal amount equal to such Refunding Loans, shall have a weighted average life to maturity as determined below, shall bear interest at a fixed rate or fixed rates per annum, shall be payable as set forth in or determined under the Indenture and shall be of Investment Grade Quality.

The Owner Participant, the Owner Trustee and the Lessee acknowledge that, so long as the Owner Participant's Initial Theoretical Return is preserved, it is in their best interests to effect a reduction in the amounts of the installments of Basic Rent payable by the Lessee during the Basic Lease Term. Accordingly, the Owner Participant agrees to use its best efforts to effect a refunding of Additional Notes permitted by the provisions of the preceding paragraph at such time or times as, in the judgment of Goldman Sachs or another investment banking firm acceptable to the Lessee, the prevailing interest rates for long term debt and market conditions will permit the issuance of Refunding Notes at an interest rate or rates that will result in a significant reduction in such amounts. Any refunding effected pursuant to the preceding sentence shall be at the expense of the Lessee and, if requested by the Owner Participant, with the Lessee's assistance.

In connection with any refunding of Additional Notes, the Owner Participant shall seek the advice of Goldman Sachs or another investment banking firm acceptable to the Lessee in determining the number of tranches or series of Refunding Notes to be issued therefor and the interest rate or rates applicable thereto (which shall be reflective of actual market conditions) and, based on such determination, the Owner Participant shall determine the principal amount, the amortization schedule and the weighted average life to maturity applicable to all tranches or series of Refunding Notes (provided that the aggregate weighted average life to maturity of all such Refunding Notes shall not vary from the aggregate weighted average life to maturity reflected in the debt amortization schedule for the Initial Series Notes by more than 18 months), including the final maturities thereof (which shall be no later than the date which is the 33rd anniversary of the Closing Date), so as to minimize the amounts of the installments of Basic Rent payable by the Lessee during the Basic Lease Term, while preserving the Owner Participant's Initial Theoretical Return.

In the case of any refunding of Additional Notes, the adjustment of the percentages for Basic Rent, Stipulated Loss Value and Termination Value pursuant to Section 3(d) of the Lease shall be effected in such a manner as to provide to the Lessee, consistent with the requirements of Section 3(d) of the Lease, the net savings in interest expense accruing as a result of such refunding.

(c) *Refunding Loans by Funding Corporation.* Funding Corporation agrees, upon the Owner Participant's request at any time and from time to time, subject to the fulfillment on or before the applicable Refunding Date of the conditions set forth in Section 2.06(e), to make a Refunding Loan to the Owner Trustee with the proceeds of the sale of Refunding Bonds in an amount equal to all or a portion (not less than $8,000,000) of the amount necessary to refund the Notes Outstanding pursuant to Section 2.06(a) or 2.06(b), as specified by the Owner Participant on the advice of Goldman Sachs or another investment banking firm acceptable to the Lessee.

(d) *Cooperation.* Each of the Lessee, the Owner Trustee, the Owner Participant, each Loan Participant and Funding Corporation agrees that it will cooperate in connection with any refunding of the Notes and any Refunding Loan and that it will enter into such additional agreements and such supplements or amendments to or consents under each of the Transaction Documents as may reasonably be requested by the Owner Participant to effectuate the same.

(e) *Conditions to Refunding.* In addition to the limitations set forth in Sections 2.06(a) and 2.06(b), the obligations of the Owner Participant, the Loan Participants and Funding Corporation to participate in a refunding of any Outstanding Notes, as provided in said Sections, shall be subject to the fulfillment on or before the applicable Refunding Date of the following conditions precedent (each instrument, document, certificate, opinion or other writing to be in form and substance satisfactory to the Owner Participant and the Loan Participants and, if Funding Corporation is to make a Refunding Loan, Funding Corporation):

(1) *Authentication Request, etc.* The Owner Trustee shall have delivered to the Indenture Trustee a request, dated the applicable Refunding Date, authorizing the Indenture Trustee to authenticate and deliver the Notes to be issued on such date pursuant to Section 3.05 of the Indenture.

(2) *Notes and Bond Transactions.* (A) The Loan Participants shall have received (x) if and to the extent that the Loan Participant is Funding Corporation, the proceeds from the sale of Refunding Bonds in an amount sufficient to make the Refunding Loan and (y) from the Lessee (as a special payment of Basic Rent, if the Refunding Date shall be a date other than a Basic Rent Payment Date), an amount equal to accrued interest on the Outstanding Notes from, and including, the later of the date thereof or the date to which interest thereon shall have been paid, to, but excluding, the applicable Refunding Date, (B) the Owner Trustee shall have executed, and the Indenture Trustee shall have authenticated and delivered, to or upon the order of the respective Loan Participants, the Notes evidencing the Refunding Loan, and (C) if and to the extent that the Loan Participant is Funding Corporation, the Collateral Trust Trustee shall have accepted the Refunding Supplemental Indenture subjecting the Refunding Notes to the lien and security interest of the Collateral Trust Indenture.

(3) *No Default.* No Event of Default or Indenture Event of Default shall have occurred and be continuing, no Event of Loss shall have occurred and no Deemed Loss Event shall have occurred with respect to which the Lessor shall have demanded payment under Section 9(d) of the Lease.

(4) *Representations and Warranties.* In the case of the Loan Participants, the representations and warranties of the Owner Participant, of Wilmington Trust Company and the Owner Trustee, and of the Lessee set forth in Sections 5.02, 5.04 and 5.01, respectively, shall be true and correct on and as of the applicable Refunding Date with the same effect as though made on and as of such date (with all references to the Closing Date in such representations and warranties being changed to a reference to the applicable Refunding Date); in the case of the Owner Participant, the representations and warranties of Wilmington Trust Company and the Owner Trustee, and of the Lessee set forth in Sections 5.04 and 5.01, respectively, and, if Funding Corporation is a Loan Participant, the representations and warranties of Funding Corporation set forth in Section 5.06, shall be true and correct on and as of such Refunding Date with the same effect as though made on and as of such date (with all references to the Closing Date being changed as appropriate); the Loan Participants and the Owner Participant shall have received appropriate certificates, dated the applicable Refunding Date, to such effect (and, in the case of the certificate of the Lessee, to the effect set forth in paragraph (3) above, except as to the absence of an Indenture Event of Default); and the Owner Participant, Wilmington Trust Company and the Owner Trustee, and the Lessee shall have made such additional representations and warranties as of the applicable Refunding Date as the Owner Participant, the Loan Participants or Funding Corporation shall have reasonably requested.

(5) *Registration Statement.* If Funding Corporation is a Loan Participant, and the Refunding Bonds are to be sold in a public offering, the Owner Participant and, if the Initial Series Notes are being refunded, the Original Loan Participants, shall have received an Officers' Certificate of the Lessee, dated the applicable Refunding Date, to the effect that on the date it became effective and on the applicable Refunding Date, the Registration Statement did not and does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein not misleading.

(6) *Governmental Action.* The Lessee shall have obtained or caused to have been obtained, and shall have delivered to the Owner Participant and the Loan Participants copies of documents or other evidence of, all Governmental Action (including, without limitation, any necessary approval of the SEC under the Holding Company Act or the Investment Company Act and any necessary order of the IURC) required in connection with the issuance of the Refunding Notes and the Refunding Bonds, if any.

(7) *Opinions of Counsel.* The Owner Participant and the Loan Participants shall have received a favorable opinion of Funding Corporation's Special Counsel, dated the applicable Refunding Date and addressed to the Owner Participant and the Loan Participants, addressing such matters relating to the transactions in connection with the Refunding Notes and the Refunding Bonds, if any, as the Owner Participant or the Loan Participants may reasonably request. The Owner Participant and the Loan Participants shall have received favorable opinions of Owner Participant's Special Counsel, Owner Participant's Special Indiana Counsel, Owner Trustee's Counsel, Indenture Trustee's Counsel, Lessee's Special Counsel, Lessee's Counsel and Lessee's Special Indiana Counsel, each dated the applicable Refunding Date and addressed to the Owner Participant and the Loan Participants, addressing such matters relating to the transactions in connection with the Refunding Notes and the Refunding Bonds, if any, as the Owner Participant or the Loan Participants may reasonably request.

(8) *Receipt of Documents.* If Funding Corporation is a Loan Participant, Funding Corporation and the Collateral Trust Trustee shall have received copies of all documents previously delivered to the Original Loan Participants pursuant to Section 3.01.

(9) *Satisfaction of Underwriting Agreement Conditions.* If Funding Corporation is a Loan Participant, all of the conditions precedent to Funding Corporation's obligations under any Underwriting Agreement shall have been fulfilled or waived by Funding Corporation.

(10) *Securities Act Indemnification.* The Owner Participant shall have received from the Lessee a written indemnity, in form and substance satisfactory to it, with respect to all Expenses

that may be incurred by it with respect to the Securities Act and the rules and regulations of the SEC thereunder.

(11) *Availability of Refunding Loans.* There shall have been obtained from one or more financial institutions or other entities (which may include Funding Corporation) Refunding Loans on substantially the terms and conditions set forth in Section 2.06(a) or 2.06(b), as the case may be.

(12) *Accounting Treatment.* In the case of the refunding of any Outstanding Notes other than the Initial Series Notes, the Refunding Loans shall not require the transaction effected pursuant to the Lease to be classified by the Owner Participant as other than a leveraged lease as defined under then current generally accepted accounting principles for leveraged leases if such classification would have a material adverse effect on the Owner Participant.

ARTICLE III

CONDITIONS PRECEDENT

SECTION 3.01. Conditions Precedent to Obligations of Owner Participant and Original Loan Participants on Closing Date. The obligation of the Owner Participant to make the Investment on the Closing Date, and the obligation of each Original Loan Participant to make its Loan on the Closing Date, shall be subject to the fulfillment to the satisfaction of, or waiver by, such Participant (acting directly or by authorization of its special counsel), prior to or on the Closing Date, of the following conditions precedent (except that (i) the obligations of any party shall not be subject to such party's own performance or compliance, (ii) the conditions specified in paragraphs (b), (r), (s), (dd) and (mm) and the condition specified in the second sentence of paragraph (gg) need be fulfilled to the satisfaction of, or waived by, only the Owner Participant and (iii) the conditions specified in paragraphs (f), (i), (o), (t) and (u) and the condition specified in the third sentence of paragraph (gg) need be fulfilled to the satisfaction of, or waived by, only the Original Loan Participants):

(a) *Notice of Closing; Transaction Documents.* Each Participant shall have received executed counterparts of the Notice of Closing, each Transaction Document (other than the Tax Indemnification Agreement), the Unit 2 Operating Agreement and the Capital Funds Agreement, and executed counterparts (or copies thereof) of such other agreements, instruments and documents as are contemplated by this Agreement to be delivered at the Closing.

(b) *Tax Indemnification Agreement.* The Owner Participant shall have received an executed counterpart of the Tax Indemnification Agreement.

(c) *Due Authorization, Execution and Delivery.* All of the documents described in clauses (a) and (b) of this Section 3.01 shall have been duly authorized, executed and delivered by the respective parties thereto and shall be in full force and effect on the Closing Date, and each of the Original Loan Participants and the Owner Participant shall have received evidence as to such authorization, execution and delivery.

(d) *Authentication Request, etc.* The Owner Trustee shall have delivered to the Indenture Trustee (i) a request, dated the Closing Date, authorizing and requesting the Indenture Trustee to authenticate and, upon further instructions of the Owner Trustee (which may be oral instructions), to deliver to each Original Loan Participant an Initial Series Note (or Notes) in principal amount (or aggregate principal amount) equal to the amount of the Loan to be made by such Original Loan Participant pursuant to Section 2.03, and (ii) the Original of the Lease (against a receipt therefor).

(e) *Making of Investment and Loans.* The Owner Participant shall have made the Investment in accordance with Section 2.01 and the Original Loan Participants shall have made the Loans in accordance with Section 2.03; and the aggregate amount of such Investment and Loans shall equal the Purchase Price.

(f) *Initial Series Notes.* The Owner Trustee shall have duly issued and executed, and the Indenture Trustee shall have authenticated and delivered to each Original Loan Participant, an

Initial Series Note (or Initial Series Notes), dated the Closing Date, in principal amount (or aggregate principal amount) equal to the amount of the Loan made by such Original Loan Participant to the Owner Trustee on the Closing Date.

(g) *No Violation of Applicable Law.* The making by the Owner Participant of the Investment to be made by it pursuant to Sections 2.01 and 2.05(d), and the making by the Original Loan Participants of the Loans to be made by them and the issuance to them of the Initial Series Notes evidencing such Loans pursuant to Sections 2.03 and 2.05(d), shall not violate any Applicable Law.

(h) *No Default, etc.* No Default or Event of Default shall have occurred and be continuing and no Event of Loss or Deemed Loss Event shall have occurred.

(i) *No Indenture Default.* No Indenture Default or Indenture Event of Default shall have occurred and be continuing.

(j) *Recording and Filing.* The recordation of the sale of, and the Owner Trustee's title to, the Undivided Interest, and the financing statements and fixture filings under the Uniform Commercial Code and certain Transaction Documents, in each case as enumerated and described in Schedule 4, shall have been recorded or filed in the respective places or offices set forth in such Schedule, and all recording and filing fees with respect thereto shall have been paid.

(k) *Representations and Warranties of Lessee.* The representations and warranties of the Lessee set forth in Section 5.01 shall be true and correct on and as of the Closing Date with the same effect as though made on and as of the Closing Date, and each of the Original Loan Participants, the Owner Participant, the Owner Trustee and the Indenture Trustee shall have received an Officers' Certificate of the Lessee, dated the Closing Date, to such effect and to the effect that no Default, Event of Default or Event of Loss is in existence on the Closing Date.

(l) *Opinion of Lessee's Special Counsel.* Each of the Original Loan Participants and the Owner Participant shall have received an opinion of the Lessee's Special Counsel substantially in the form of Exhibit H-1, dated the Closing Date and addressed to each such Person, the Owner Trustee, the Indenture Trustee and Funding Corporation.

(m) *Opinion of Lessee's Counsel.* Each of the Original Loan Participants and the Owner Participant shall have received an opinion of the Lessee's Counsel substantially in the form of Exhibit H-2, dated the Closing Date and addressed to each such Person, the Owner Trustee, the Indenture Trustee and Funding Corporation.

(n) *Opinion of Lessee's Special Indiana Counsel.* Each of the Original Loan Participants and the Owner Participant shall have received an opinion of the Lessee's Special Indiana Counsel substantially in the form of Exhibit H-3, dated the Closing Date and addressed to each such Person, the Owner Trustee, the Indenture Trustee and Funding Corporation.

(o) *Representations and Warranties of Owner Participant.* The representations and warranties of the Owner Participant set forth in Section 5.02 shall be true and correct on and as of the Closing Date with the same effect as though made on and as of the Closing Date, and each of the Original Loan Participants, the Owner Trustee and the Indenture Trustee shall have received an Officers' Certificate of the Owner Participant, dated the Closing Date, to such effect.

(p) *Opinion of Owner Participant's Special Counsel.* Each of the Original Loan Participants and the Owner Participant shall have received an opinion of the Owner Participant's Special Counsel substantially in the form of Exhibit H-4, dated the Closing Date and addressed to each such Person, the Owner Trustee, the Indenture Trustee and Funding Corporation.

(q) *Opinion of Owner Participant's Special Indiana Counsel.* Each of the Original Loan Participants and the Owner Participant shall have received an opinion of the Owner Participant's Special Indiana Counsel substantially in the form of Exhibit H-5, dated the Closing Date and addressed to each such Person, the Owner Trustee, the Indenture Trustee and Funding Corporation.

(r) *Opinion of Owner Participant's Special Counsel Regarding Tax Matters.* The Owner Participant shall have received a favorable opinion of the Owner Participant's Special Counsel, dated the Closing Date and addressed to the Owner Participant, as to such Federal tax matters as the Owner Participant may reasonably request.

(s) *Representations and Warranties of Original Loan Participants.* The representations and warranties of each Original Loan Participant set forth in Section 5.03 shall be true and correct on and as of the Closing Date as though made on and as of the Closing Date.

(t) *Opinion of Original Loan Participants' Special Counsel.* Each of the Original Loan Participants shall have received a favorable opinion of the Original Loan Participants' Special Counsel, dated the Closing Date and addressed to each Original Loan Participant, as to such matters relating to the transactions contemplated hereby and by the other Transaction Documents as the Original Loan Participants may reasonably request.

(u) *Opinion of Original Loan Participants' Special Indiana Counsel.* Each of the Original Loan Participants shall have received a favorable opinion of the Original Loan Participants' Special Indiana Counsel, dated the Closing Date and addressed to each Original Loan Participant, as to such matters relating to the transactions contemplated hereby and by the other Transaction Documents as the Original Loan Participants may reasonably request.

(v) *Representations and Warranties of Owner Trustee.* The representations and warranties of Wilmington Trust Company and the Owner Trustee set forth in Section 5.04 shall be true and correct on and as of the Closing Date with the same effect as though made on and as of the Closing Date, and each of the Original Loan Participants, the Owner Participant and the Indenture Trustee shall have received an Officers' Certificate of Wilmington Trust Company, dated the Closing Date, to such effect.

(w) *Opinion of Owner Trustee's Counsel.* Each of the Original Loan Participants and the Owner Participant shall have received an opinion of the Owner Trustee's Counsel substantially in the form of Exhibit H-6, dated the Closing Date and addressed to each such Person, the Indenture Trustee and Funding Corporation.

(x) *Representations and Warranties of Indenture Trustee.* The representations and warranties of The Connecticut National Bank and the Indenture Trustee set forth in Section 5.05 shall be true and correct on and as of the Closing Date with the same effect as though made on and as of the Closing Date, and each of the Original Loan Participants, the Owner Participant and the Owner Trustee shall have received an Officers' Certificate of The Connecticut National Bank, dated the Closing Date, to such effect.

(y) *Opinion of Indenture Trustee's Counsel.* Each of the Original Loan Participants and the Owner Participant shall have received an opinion of the Indenture Trustee's Counsel substantially in the form of Exhibit H-7, dated the Closing Date and addressed to each such Person, the Owner Trustee and Funding Corporation.

(z) *Representations and Warranties of Funding Corporation.* The representations and warranties of Funding Corporation set forth in Section 5.06 shall be true and correct on and as of the Closing Date with the same effect as though made on and as of the Closing Date, and each of the Original Loan Participants, the Owner Participant, the Owner Trustee and the Indenture Trustee shall have received an Officers' Certificate of Funding Corporation, dated the Closing Date, to such effect.

(aa) *Opinion of Funding Corporation's Special Counsel.* Each of the Original Loan Participants, the Owner Participant and Funding Corporation shall have received an opinion of Funding Corporation's Special Counsel substantially in the form of Exhibit H-8, dated the Closing Date and addressed to each such Person, the Owner Trustee and the Indenture Trustee.

(bb) *Taxes.* All Taxes, if any, payable on or prior to the Closing Date in connection with the execution, delivery, recording and filing of the Transaction Documents and the documents and instruments enumerated and described in Schedule 4, or in connection with the issuance and sale of the Initial Series Notes and the making by the Owner Participant of the Investment, or in connection with the consummation of any other transactions contemplated hereby and by the other Transaction Documents, shall have been paid in full.

(cc) *Form U-7D.* A certificate on Form U-7D with respect to the Lease shall have been duly executed and delivered by the Owner Trustee, the Owner Participant and, if necessary, the Lessee and shall be in due form for filing with the SEC.

(dd) *Appraisal.* The Owner Participant shall have received a written report from the Appraiser, dated the Closing Date, addressed to the Owner Participant and in form and substance satisfactory to the Owner Participant, containing an appraisal of the Undivided Interest, which appraisal shall reflect the Appraiser's reasonable conclusion that: (i) the estimated economic useful life of Unit 2 (including the Undivided Interest) is at least 44.25 years, and the terms of the Ground Lease will permit the Owner Participant to use the Undivided Interest throughout the entire estimated economic useful life of Unit 2; (ii) taking into account the effect and the existence of the Ground Lease and the Unit 2 Operating Agreement, at the expiration of the Basic Lease Term the Undivided Interest will have an estimated residual value in the hands of the Owner Trustee or a Person (unrelated to the Lessee) who could lease or purchase the Undivided Interest from the Owner Trustee for commercial use equal to at least 20% of the Purchase Price, determined without including therein any increase or decrease for inflation or deflation during the period from the Closing Date through the expiration of the Basic Lease Term; (iii) taking into account the effect and the existence of the Ground Lease and the Unit 2 Operating Agreement, on the Closing Date the fair market value of the Undivided Interest in the hands of the Owner Trustee is at least equal to the Purchase Price; (iv) taking into account the effect and the existence of the Ground Lease and the Unit 2 Operating Agreement, at the expiration of the Basic Lease Term the use of the Undivided Interest by the Owner Trustee, or by another Person unrelated to the Lessee, will be feasible from an engineering and economic point of view and will be commercially reasonable; and (v) the rent payable under subsection 6.1(a) of the Ground Lease is the fair rental value of the Ground Leasehold and the Easements.

(ee) *Offering and Sale of Interests.* The Original Loan Participants and the Owner Participant shall have received a letter from Goldman Sachs, dated the Closing Date and addressed to each such Person, the Owner Trustee, the Indenture Trustee and Funding Corporation, as to the offering and sale of the interests in the transactions contemplated by this Agreement and each other participation agreement relating to an undivided interest in Unit 2.

(ff) *Governmental Action.* The Lessee shall have obtained or caused to have been obtained, and shall have delivered to each of the Original Loan Participants and the Owner Participant copies of documents or other evidence of, all Governmental Action (including, without limitation, any necessary approval of the SEC under the Holding Company Act and any necessary order of the IURC or FERC) required for the consummation by the Lessee of the transactions contemplated hereby and by the other Transaction Documents.

(gg) *Title Report; Title Insurance.* The Owner Participant and each of the Original Loan Participants shall have received (i) a title report, dated the Closing Date and addressed to the Owner Participant, the Owner Trustee and the Indenture Trustee, as to the Rockport Plant Site, which report does not disclose any exceptions materially adverse to the state of title warranted by the Lessee in Section 5.01(f) or the possession or operation of Unit 2 (including the Undivided Interest) or the performance by the Lessee of its obligations under this Agreement and the other Transaction Documents to which the Lessee is or is to become a party, (ii) a report by the office of the Indiana Secretary of State, dated as close to the Closing Date as is practicable, in respect of a search of the Uniform Commercial Code files maintained by such office and (iii) a report by the office of the Recorder of Spencer County, Indiana, dated as close to the Closing Date as is practicable, in respect of a search of the Uniform Commercial Code files maintained by such office. The Owner Trustee shall have received an American Land Title Association owner's policy of title insurance issued by Ticor Title Insurance Company of California or such other insurer as is acceptable to the Lessee, in form and substance satisfactory to the Owner Participant, insuring the Owner Trustee's title to the Unit 2 Site Interest and the Easements in an amount equal to the Undivided Interest Percentage of $10,000,000. The Indenture Trustee shall have received an American Land Title Association mortgagee's policy of title insurance issued by Ticor Title Insurance Company of California or such other insurer as is acceptable to the Lessee, in form and substance satisfactory to the Indenture Trustee, insuring the Indenture Trustee's mortgage lien on the Unit 2 Site Interest and the Easements in an amount equal to the Undivided Interest Percentage of $10,000,000.

(hh) *Survey.* Each of the Original Loan Participants and the Owner Participant shall have received a survey of the Rockport Plant Site and the Unit 2 Site, certified by a licensed surveyor and reasonably acceptable to the Owner Participant, showing no state of facts unsatisfactory to such Person.

(ii) *Special Certificate of Lessee.* Each of the Original Loan Participants and the Owner Participant shall have received a certificate of a Responsible Officer of the Lessee, dated the Closing Date, to the effect that, except as set forth on a schedule to such certificate (which schedule shall be in form and substance reasonably satisfactory to the Owner Participant and the Appraiser) and in reliance upon statements of the appropriate officers and employees of the Lessee and American Electric Power Service Corporation, as project manager of Unit 2, and I&M, as construction manager of Unit 2 and as the Operator, (i) Unit 2 has been in all material respects completed in a good and workmanlike manner and in accordance with the plans and specifications relating thereto (as the same may have been modified from time to time to reflect Unit 2 as actually completed) and Applicable Law, (ii) all Governmental Action necessary for the commercial operation of Unit 2 has been obtained, other than Governmental Action that is routine in nature for the Rockport Plant or that under Applicable Law is not required on the Closing Date and cannot be obtained, or typically is not applied for, prior to the time it is required, and that the Lessee expects to be obtained in due course, (iii) the plans and specifications relating to Unit 2 are complete in all material respects (modified or to be modified as aforesaid) and consistent with prudent engineering practice, (iv) the testing and startup procedures, and the operation and maintenance programs relating to Unit 2 are consistent with such plans and specifications, Applicable Law and prudent engineering practice, (v) Unit 2 is being (or has been) tested in accordance with customary testing and startup procedures and, as of the Closing Date, such tests and procedures indicate that Unit 2 will have the capacity and functional ability to perform in commercial operation, on a continuing basis, the function for which it was designed in accordance with such plans and specifications, (vi) all material Governmental Action relating to the construction, operation and maintenance of Unit 2 and the Common Facilities is listed in a schedule to such certificate, (vii) there is no present event or condition that would materially adversely affect the capability of Unit 2 to operate in accordance with such plans and specifications or materially impair the value of the Undivided Interest and (viii) based upon the Lessee's present reasonable expectations, and subject to Applicable Law, the rights and interests made available to the "Participants" (as defined in the Unit 2 Operating Agreement) pursuant to the Unit 2 Operating Agreement (including the Lessee), to the extent such rights and interests are to be made available to the Owner Trustee, any successor or assign of the Owner Trustee or any transferee of the Owner Trustee pursuant to the Unit 2 Operating Agreement, together with the rights to be made available under the Ground Lease, are adequate to permit, during the period following the Lease Termination Date or the taking of possession of the Undivided Interest in the exercise of remedies under Section 16 of the Lease, as the case may be, (A) the location, occupation, interconnection, maintenance and repair of Unit 2, (B) the use, operation and possession of Unit 2, (C) the construction, use, operation, possession, maintenance, replacement, renewal and repair of all alterations, modifications, additions, accessions, improvements, appurtenances, replacements and substitutions thereof and thereto, (D) adequate ingress to and egress from Unit 2 for any reasonable purpose in connection with the exercise of rights under the Unit 2 Operating Agreement and such Person's ownership and possession of the Undivided Interest and (E) the procurement of supplies of coal, water and fuel oil and of transmission services from the Rockport Plant sufficient to enable such Person to deliver the portion of the Total Net Generation of Unit 2 included in its Entitlement in a commercially efficient manner and on commercially reasonable terms. Nothing in the foregoing clause (viii) or in such certificate shall be deemed to be or be construed as a warranty by the Lessee as to the performance by the Operator or any of the other "Participants" of their respective obligations under the Unit 2 Operating Agreement.

(jj) *Note Quality.* The Initial Series Notes shall be of Investment Grade Quality.

(kk) *Accounting Treatment.* The transaction to be effected pursuant to the Lease shall be properly classifiable by the Owner Participant as a leveraged lease under generally accepted accounting principles for leveraged leases in effect on the Closing Date.

(ll) *Amendment to Unit Power Agreement.* The Lessee and I&M shall have entered into, and shall have filed with FERC for its approval, an amendment to the Unit Power Agreement which shall, among other things, (i) specifically include Basic Rent payable under the Lease as an item of operating and other expenses of AEGCO referred to in Section 1.3 thereof, and (ii) specifically provide that the Unit Power Agreement shall continue in full force and effect until the Lease Term shall have expired or been terminated and all Basic Rent payable under the Lease shall have been paid in full (it being understood that said amendment shall not become effective unless and until the approval of FERC is obtained).

(mm) *Indiana Taxes.* No statutory or regulatory change with respect to the tax laws of the State of Indiana shall have occurred after the Contract Date and on or prior to September 15, 1989 (including, for the purposes of this paragraph (mm), (i) any statutory change passed by the Indiana legislature or (ii) any regulatory change officially proposed by the Indiana Department of Revenue, in each case after the Contract Date and on or prior to September 15, 1989) that will have a material adverse effect on the Owner Participant's realization of the Owner Participant's Initial Theoretical Return unless (A) the Owner Participant shall have failed to deliver written notice to the Lessee on or before September 18, 1989 to the effect that the Owner Participant will not make its Investment on the Closing Date unless it is indemnified for such change or (B) the Owner Participant is indemnified for such change.

(nn) *Other Matters.* Each of the Original Loan Participants and the Owner Participant shall have received such information and copies of such other documents as the Original Loan Participants or the Owner Participant may reasonably request.

SECTION 3.02. Conditions Precedent to Obligations of Lessee on Closing Date. The obligation of the Lessee under Section 2.05 to sell and lease back the Undivided Interest shall be subject to the fulfillment to the satisfaction of, or waiver by, the Lessee, prior to or on the Closing Date, of the following conditions precedent:

(a) *Transaction Documents; Closing Documents and Opinions.* The Lessee shall have received an executed counterpart of each Transaction Document and an original of each other agreement referred to in Section 3.01, and shall have received an original or copy of each instrument, Officers' Certificate, certificate, opinion (other than the opinions referred to in Sections 3.01(r), 3.01(t) and 3.01(u)), document or other evidence of Governmental Action, report and other document referred to in Section 3.01. Each such opinion shall be addressed to the Lessee and shall cover such matters relating to the transactions contemplated hereby and by the other Transaction Documents as the Lessee may reasonably request. The Lessee also shall have received a written report from the Appraiser, addressed to the Lessee and the Owner Participant and in form and substance satisfactory to the Lessee, which report shall reflect the Appraiser's reasonable conclusion as to the estimated residual value of the Undivided Interest in the hands of the Owner Trustee or a Person (unrelated to the Lessee) who could lease or purchase the Undivided Interest from the Owner Trustee for commercial use, taking into account the effect and existence of the Ground Lease and the Unit 2 Operating Agreement, at the expiration of the Basic Lease Term, determined after giving effect to inflation or deflation during the period from the Closing Date through the expiration of the Basic Lease Term.

(b) *Due Authorization, Execution and Delivery.* All of the documents described in Sections 3.01(a) and 3.01(b) shall have been duly authorized, executed and delivered by the respective parties thereto and shall be in full force and effect on the Closing Date, and the Lessee shall have received evidence as to such authorization, execution and delivery.

(c) *Payment of Purchase Price.* The Owner Trustee shall have paid to the Lessee an amount in immediately available funds equal to the Purchase Price in accordance with the instructions set forth in the Notice of Closing.

(d) *Representations and Warranties.* The representations and warranties of the Owner Participant set forth in Section 5.02, of the Original Loan Participants set forth in Section 5.03, of Wilmington Trust Company and the Owner Trustee set forth in Section 5.04, of The Connecticut National Bank and the Indenture Trustee set forth in Section 5.05 and of Funding Corporation set forth in Section 5.06, shall be true and correct on and as of the Closing Date with the same effect as though made on and as of the Closing Date.

(e) *No Violation of Applicable Law.* The sale and leaseback of the Undivided Interest by the Lessee and the other transactions contemplated hereby and by the other Transaction Documents shall not violate any Applicable Law.

(f) *Opinion of the Lessee's Special Counsel.* The Lessee shall have received a favorable opinion of the Lessee's Special Counsel, dated the Closing Date and addressed to the Lessee, as to such Federal tax and other matters as the Lessee may reasonably request.

(g) *Form U-7D.* A certificate on Form U-7D with respect to the Lease shall have been duly executed and delivered by the Owner Trustee, the Owner Participant and, if necessary, the Lessee and shall be in due form for filing with the SEC.

(h) *Governmental Action.* All Governmental Action (including, without limitation, any necessary approval of the SEC under the Holding Company Act and any necessary order of the IURC or FERC) required or, in the opinion of the Lessee, advisable for the consummation of the transactions contemplated hereby and by the other Transaction Documents shall have been obtained and shall be in form and substance satisfactory to the Lessee.

(i) *Accounting Treatment.* The Lessee shall have been advised by its independent public accountants on or before the Closing Date that the sale and leaseback of the Undivided Interest constitute a sale and an operating lease in conformity with generally accepted accounting principles.

(j) *No Change in Tax Law.* No Change in Tax Law shall have occurred on or prior to the Closing Date that would result, pursuant to Section 3(d) of the Lease, in an upward adjustment in the percentages for Basic Rent set forth in Schedule 1 to the Lease which would cause the net present value of the installments of Basic Rent, as so adjusted, payable by the Lessee during the Basic Lease Term (discounted semiannually to the Closing Date at the rate of 10.63% per annum), expressed as a percentage of the Purchase Price, to be increased to an amount which is 300 or more basis points higher than the net present value of the installments of Basic Rent, without giving effect to such adjustment, payable by the Lessee during the Basic Lease Term (similarly discounted), expressed as a percentage of the Purchase Price.

(k) *Consents and Approvals.* All approvals and consents of trustees and holders of indebtedness or obligations of the Lessee and of other Persons who are party to contracts with the Lessee required or, in the opinion of the Lessee, advisable for the consummation of the transactions contemplated hereby and by the other Transaction Documents shall have been obtained and shall be in form and substance satisfactory to the Lessee.

ARTICLE IV

EXTENT OF INTEREST OF HOLDERS OF NOTES

A Holder of a Note shall have no further interest in, or other right with respect to, the Lease Indenture Estate when and if the principal of and premium, if any, and interest on all Notes held by such Holder and all other sums payable to such Holder under this Agreement, the Indenture and such Notes shall have been paid in full.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

SECTION 5.01. Representations and Warranties of Lessee. The Lessee represents and warrants to each of the other parties hereto as follows:

(a) *Due Organization.* The Lessee is a corporation duly organized, validly existing and in good standing under the laws of the State of Ohio, and has the corporate power and authority to conduct its business as now conducted, to own or hold under lease its properties and to enter into and perform its obligations under the Capital Funds Agreement, the Transaction Documents to which it is or is to become a party and the Rockport Plant Agreements. The Lessee is duly qualified to do business and in good standing as a foreign corporation in the State of Indiana. The Lessee has not failed to qualify to do business or to be in good standing in any other jurisdiction where failure so to qualify or to be in good standing would materially and adversely affect the business or financial condition of the Lessee or its ability to perform its obligations under this Agreement or any other Transaction Document to which it is or is to become a party.

(b) *Due Authorization; No Conflict.* Each of the Transaction Documents to which the Lessee is or is to become a party, the Rockport Plant Agreements and the Capital Funds Agreement has been duly authorized by all necessary corporate action on the part of the Lessee and has been, or on the Closing Date will have been, duly executed and delivered by the Lessee, and the execution, delivery and performance thereof by the Lessee do not, and on the Closing Date will not, (i) require any approval of the stockholder of the Lessee or any approval or consent of any trustee or holder of any indebtedness or obligation of the Lessee, other than such consents and approvals as have been, or, on or prior to the Closing Date, will have been, obtained, (ii) contravene any Applicable Law binding on the Lessee, or (iii) contravene or result in any breach of or constitute any default under, or result in the creation of any Lien (other than as permitted by the Transaction Documents) upon any property of the Lessee under, the Lessee's charter or by-laws or any indenture, mortgage, loan agreement, lease or other material agreement or material instrument to which the Lessee is a party or by which the Lessee or any of its properties is bound.

(c) *Governmental Action.* All Governmental Action required in connection with the execution, delivery and performance by the Lessee of the Transaction Documents to which the Lessee is or is to become a party, the Capital Funds Agreement and the Rockport Plant Agreements has been, or, on or prior to the Closing Date, will have been, obtained, given or made, other than such Governmental Action (i) that is routine in nature or (ii) that under Applicable Law is not required on the Closing Date and cannot be obtained, or typically is not applied for, prior to the time it is required. The Lessee has no reason to believe that the Governmental Action referred to in clauses (i) and (ii) of the preceding sentence will not be timely obtained. All Governmental Action required in connection with the execution, delivery and performance by AEP of the Capital Funds Agreement has been, or, on or prior to the Closing Date, will have been, obtained, given or made.

(d) *Enforceability.* Each of the Transaction Documents to which the Lessee is or is to become a party, the Capital Funds Agreement and the Rockport Plant Agreements constitutes, or, when executed and delivered by the Lessee, will constitute, the legal, valid and binding obligation of the Lessee, enforceable against the Lessee in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(e) *Litigation.* Except as disclosed in the reports, statements and Confidential Equity Offering Memorandum referred to in Section 5.01(h), there is no action, suit or proceeding pending or, to the knowledge of the Lessee, threatened against the Lessee before or by any Governmental Authority that questions the validity or enforceability of this Agreement or any other Transaction Document to which the Lessee is or is to become a party or any of the Rockport Plant Agreements or that will have a material adverse effect on the business or financial condition of the Lessee or on the ability of the Lessee to perform its obligations under the Transaction Documents to which the Lessee is or is to become a party or the Rockport Plant Agreements.

(f) *Title to the Undivided Interest; Security Interest.* On the Closing Date, (i) good and marketable title to the Undivided Interest will be validly and effectively conveyed to the Owner Trustee, free and clear of all Liens except Permitted Liens (other than Permitted Liens listed in clauses (v) and (vii) of the definition thereof and Liens for Taxes that are being contested in good faith, in each case which are material in amount), (ii) the Lessee will have good and marketable title to its undivided ownership interest in the property purported to be covered by the Ground Lease, and the Ground Leasehold and the Easements will be validly and effectively granted to the Owner Trustee pursuant to the Ground Lease, free and clear of all Liens except Permitted Liens (other than Permitted Liens listed in clauses (v) and (vii) of the definition thereof and Liens for Taxes that are being contested in good faith, in each case which are material in amount), (iii) the Easements will have been released from the Existing Mortgage and any foreclosure under the Existing Mortgage would not impair the Owner Trustee's ability to operate Unit 2, (iv) the Lessee will have good and marketable title to its undivided ownership interest in the Adjoining Premises, (v) Unit 2 will be located entirely within the Rockport Plant Site, (vi) all filings and recordings necessary to perfect the Owner Trustee's right, title and interest in and to the Undivided Interest and the property purported to be covered by the Ground Lease and to perfect for the benefit of the Indenture Trustee and the Holders of the Notes the lien and security interest provided for in the Indenture will have been duly made, and (vii) no other action, including action under any fraudulent conveyance statute, will be required to protect the right, title and the interest of the Owner Trustee in and to the Undivided Interest against the claims of other Persons or to perfect such lien and security interest in favor of the Indenture Trustee.

(g) *Securities Act.* Neither the Lessee nor anyone authorized to act on its behalf has offered (or, on the Closing Date, will have offered), directly or indirectly, any Note, any note issued with respect to any other undivided interest in Unit 2, the Undivided Interest or any other undivided interest in Unit 2, the Lease or any other lease of an undivided interest in Unit 2, or any similar security or lease, the offering of which, for purposes of the Securities Act and the rules and regulations of the SEC thereunder, would be deemed to be part of the same offering as the offering of the aforementioned securities or leases, or solicited any offer to acquire any of the aforementioned securities or leases in violation of Section 5 of the Securities Act, and, except as contemplated by this Participation Agreement, neither the Lessee nor anyone authorized to act on its behalf will take any action which would subject the issuance or sale of any Note or any interest in the Lease or any other debt instrument (other than the Bonds) issued or to be issued to finance the Undivided Interest to the registration requirements of said Section 5.

(h) *Disclosure.* All information supplied by and relating to the Lessee and its Affiliates that is contained in the Confidential Equity Offering Memorandum dated October 1988 (the "*EOM*") was accurate in all material respects on the date the EOM was first mailed to offerees, and on such date the EOM did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading. All information supplied by and relating to the Lessee and its Affiliates that will be contained or incorporated by reference in the offering memorandum to be distributed prior to the Closing Date in connection with the issuance of the Initial Series Notes (the "*DOM*") will be accurate in all material respects on the date the DOM is first mailed to offerees, and on such date the DOM will not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements made therein, in the light of the circumstances under which they are made, not misleading. Each of the Annual Report on Form 10-K for the fiscal year ended December 31, 1987, the Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 1988, the Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 1988 and the Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 1988 for AEP and certain of its subsidiaries, when filed (or, if any amendment with respect to any such document was filed, when such amendment was filed) with the SEC, complied in all material respects with the requirements of the Securities Exchange Act and the rules and regulations of the SEC thereunder. The unaudited balance sheet of the Lessee as at

September 30, 1988 and the related unaudited statements of income, sources and applications of funds and retained earnings of the Lessee for the nine-month period then ended, copies of which have been furnished to the Participants, fairly present, in conformity with generally accepted accounting principles applied on a consistent basis, the financial position of the Lessee as at such date and the results of its operations and its sources and applications of funds for such nine-month period (subject to normal year-end adjustments). The audited balance sheets of the Lessee as at December 31, 1987 and December 31, 1986 and the related statements of income, sources and applications of funds and retained earnings of the Lessee for each of the years in the three-year period ended December 31, 1987, copies of which have been furnished to the Participants, fairly present the financial condition of the Lessee as at such dates and the results of its operations and its sources and applications of funds for each of the three years in the period ended December 31, 1987, in conformity with generally accepted accounting principles applied on a consistent basis.

(i) *No Material Adverse Change.* Since December 31, 1987, there has been no material adverse change in the business or financial condition or operations of either the Lessee or AEP.

(j) *Location of Chief Executive Office.* The chief executive office and place of business of the Lessee is 1 Riverside Plaza, Columbus, Ohio 43215, and the place where it keeps its records concerning its accounts is located at One Summit Square, Fort Wayne, Indiana 46801.

(k) *ERISA.* Assuming that none of the Original Loan Participants is acquiring the Initial Series Note or Notes to be acquired by it hereunder, and that the Owner Participant is not acquiring its interest in the Trust, with the "plan assets" of any "employee benefit plan" (or its related trust) as defined in Section 3(3) of ERISA or with the assets of any "plan" (or its related trust) as defined in Section 4975(e)(1) of the Code, the execution and delivery by the Lessee of this Agreement and the other Transaction Documents to which the Lessee is or is to become a party will not involve any prohibited transaction within the meaning of Section 406 of ERISA or Section 4975 of the Code.

(l) *Regulation.* So long as the Lease is in effect, assuming the proper filing of Form U-7D with the SEC within 30 days after the Closing Date and the proper and timely amendment thereof as and when necessary under the Holding Company Act and the rules and regulations of the SEC thereunder, under Applicable Law now in effect, none of Wilmington Trust Company, the Owner Trustee, the Owner Participant, the Original Loan Participants, The Connecticut National Bank, the Indenture Trustee and Funding Corporation will be, or become, solely by reason of its entering into this Agreement or any other Transaction Document to which it is or is to become a party or the Unit 2 Operating Agreement, or by participating in the transactions contemplated hereby or thereby, subject to regulation by any Federal or Indiana Governmental Authority (including, without limitation, the SEC, FERC or the IURC) as an "electric utility", an "electric utility company", a "public utility", a "public utility company", a "holding company" or a "public utility holding company" under the Federal Power Act, the Holding Company Act or Indiana Code § 8-1-2; *provided, however,* that no representation or warranty is made as to the status or regulation of the Owner Participant or any Transferee or the Owner Trustee if the Owner Participant or such Transferee or any Affiliate of either thereof is an "electric utility", an "electric utility company", a "public utility", a "public utility company", a "holding company" or a "public utility holding company" under the Federal Power Act, the Holding Company Act or Indiana Code § 8-1-2.

(m) *No Default, etc.* No condition exists that constitutes, or with the giving of notice or lapse of time or both would constitute, an event of default by the Lessee under any indenture, mortgage, loan agreement, lease or other material agreement or material instrument to which the Lessee is a party or by which it or any of its properties may be bound.

(n) *Certain Documents.* True and correct copies of the Rockport Plant Agreements have been delivered to the Owner Participant's Special Counsel and the Original Loan Participants' Special Counsel on or prior to the date of execution hereof. The Rockport Plant Agreements are in full force and effect, and no material breach thereof by the Lessee or, to the Lessee's knowledge, by any other party thereto has occurred and is continuing.

(o) *Descriptions.* The description of the Undivided Interest set forth in Annex A to the Bill of Sale, Exhibit A to the Lease and Exhibit A to the Indenture is correct and sufficiently complete to identify such property. The description of the Unit 2 Site set forth in Schedule 1 to the Ground

Lease and Annex B to the Bill of Sale, and the description of the Unit 2 Site Interest set forth in Exhibit B to the Lease and Exhibit B to the Indenture, are correct and sufficiently complete to identify such property.

(p) *Investment Company.* The Lessee is not an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act.

(q) *Environmental Matters.* To the best of the Lessee's knowledge after due inquiry, the Rockport Plant Site does not contain any hazardous or toxic waste or substance that under Applicable Law could impose liability on the Lessee which could have a material adverse effect on the business (including the continued operation of Unit 2 in the manner in which it is operated on the Closing Date), results of operations or financial condition of the Lessee. To the best of the Lessee's knowledge after due inquiry, conditions at Unit 2 and the Rockport Plant Site (i) on the Contract Date do not violate any Applicable Law protecting the environment that could result in the imposition of any liability on the Owner Trustee or the Owner Participant or that could have a material adverse effect on the value of Unit 2 and (ii) on the Closing Date will not violate any Applicable Law protecting the environment that could result in the imposition of any material liability on the Owner Trustee or the Owner Participant or that could have a material adverse effect on the value of Unit 2, except as indicated in the environmental report dated January 31, 1989, prepared by Hunton & Williams for, among others, the Owner Participant, and except as otherwise disclosed by the Lessee to the Owner Participant in writing prior to the Contract Date.

SECTION 5.02. **Representations and Warranties of Owner Participant.** The Owner Participant represents and warrants to each of the other parties hereto as follows:

(a) *Due Organization.* The Owner Participant is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation, and has the corporate power and authority to enter into and perform its obligations under this Agreement and each other Transaction Document to which it is or is to become a party.

(b) *Due Authorization; No Conflict.* Each of the Transaction Documents to which the Owner Participant is or is to become a party has been duly authorized by all necessary corporate action on the part of the Owner Participant and has been, or on the Closing Date will have been, duly executed and delivered by the Owner Participant, and the execution, delivery and performance thereof by the Owner Participant do not, and on the Closing Date will not, (i) require any approval of the stockholders of the Owner Participant or any approval or consent of any trustee or holder of any indebtedness or obligation of the Owner Participant, (ii) contravene any Applicable Law binding on the Owner Participant (except no representation and warranty is made as to any Applicable Law to which the Owner Participant may be subject because of the activities of the Lessee), or (iii) contravene or result in any breach of or constitute any default under, or result in the creation of any Lien upon the Trust Estate under, the Owner Participant's charter or by-laws or any indenture, mortgage, loan agreement, lease or other agreement or instrument to which the Owner Participant is a party or by which the Owner Participant or any of its properties is bound.

(c) *Enforceability.* Each of the Transaction Documents to which the Owner Participant is or is to become a party constitutes, or, when executed and delivered by the Owner Participant, will constitute, the legal, valid and binding obligation of the Owner Participant, enforceable against the Owner Participant in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(d) *Litigation.* There is no action, suit or proceeding pending or, to the knowledge of the Owner Participant, threatened against the Owner Participant before or by any Governmental Authority that questions the validity or enforceability of this Agreement or any other Transaction Document to which the Owner Participant is or is to become a party or that will have a material adverse effect on the ability of the Owner Participant to perform its obligations under the Transaction Documents to which the Owner Participant is or is to become a party.

(e) *ERISA.* The Owner Participant is not acquiring its interest in the Trust with the "plan assets" of any "employee benefit plan" (or its related trust) as defined in Section 3(3) of ERISA or with the assets of any "plan" (or its related trust) as defined in Section 4975(e)(1) of the Code.

(f) *Securities Act.* Except as previously disclosed to and approved by the Lessee in writing, the Owner Participant is acquiring its interest in the Trust for its own account for investment and not with a view to any resale or distribution thereof, and if in the future the Owner Participant should decide to dispose of its interest in the Trust, the Owner Participant understands that it may do so only in compliance with the Securities Act and the rules and regulations of the SEC thereunder; *provided, however,* that, subject to the provisions of Article VIII and of the Trust Agreement, the disposition of the Owner Participant's interest in the Trust shall be at all times within the Owner Participant's control. Except as previously disclosed to and approved by the Lessee in writing, neither the Owner Participant nor anyone authorized to act on its behalf has offered (or, on the Closing Date, will have offered), directly or indirectly, any interest in the Undivided Interest, the Trust Estate, the Lease Indenture Estate, the Lease, the Initial Series Notes or any similar securities of the Lessee or the Owner Trustee for sale to, or solicited any offer to acquire any of the same from, any Person.

(g) *No Owner Participant's Liens.* No Owner Participant's Lien is in existence. The execution, delivery and performance by the Owner Participant of the Transaction Documents to which it is or is to become a party will not subject the Trust Estate or the Lease Indenture Estate, or any portion of either thereof, to any Owner Participant's Lien.

(h) *Financial Advisors.* The Owner Participant has not retained any broker, finder or financial advisor in connection with the transactions contemplated by the Transaction Documents, except such as may be identified in writing to the Lessee on or prior to the Contract Date and whose fees and expenses shall be paid by, and are the exclusive responsibility of, the Owner Participant.

SECTION 5.03. **Representations and Warranties of Original Loan Participants.** Each Original Loan Participant represents and warrants to each of the other parties hereto as follows:

(a) *Securities Act.* It is an "accredited investor" within the meaning of Rule 501 of the SEC under the Securities Act and it understands that no Note to be acquired by it hereunder or under the Indenture will have been registered under the Securities Act and that each such Note will bear a legend to that effect. The Initial Series Note or Notes to be acquired by it hereunder and under the Indenture shall be acquired by such Original Loan Participant for its own account for investment and not with a view to any distribution thereof, and if in the future it should decide to dispose of any Initial Series Note or interest therein (which it does not now contemplate), such Original Loan Participant understands that it may do so only in compliance with the Securities Act and the rules and regulations of the SEC thereunder; *provided, however,* that, subject to the provisions of Section 6.03, the disposition of any such Initial Series Note or interest therein shall at all times be within its control. On the Closing Date, neither such Original Loan Participant nor anyone authorized to act on its behalf will have offered, directly or indirectly, any interest in the Undivided Interest, the Trust Estate, the Lease Indenture Estate, the Lease, the Initial Series Notes or any similar securities of the Lessee or the Owner Trustee for sale to, or solicited any offer to acquire any of the same from, any Person.

(b) *ERISA.* It is not acquiring any Initial Series Note with the "plan assets" of any "employee benefit plan" (or its related trust) as defined in Section 3(3) of ERISA or with the assets of any "plan" (or its related trust) as defined in Section 4975(e)(1) of the Code.

(c) *Financial Advisors.* It has not retained any broker, finder or financial advisor in connection with the transactions contemplated by the Transaction Documents, except such as may be identified in writing to the Lessee on or prior to the Closing Date and whose fees and expenses shall be paid by, and are the exclusive responsibility of, such Original Loan Participant.

SECTION 5.04. Representations and Warranties of Owner Trustee. The Owner Trustee and, except as to the representations and warranties set forth in the second sentence of paragraph (c) and in paragraph (f) below, Wilmington Trust Company, represents and warrants to each of the other parties hereto as follows:

(a) *Due Organization.* Wilmington Trust Company is a banking corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has the corporate power and authority to enter into and perform its obligations (i) under the Trust Agreement and, to the extent it is a party hereto in its individual capacity, this Agreement and (ii) in its capacity as Owner Trustee, under this Agreement, each other Transaction Document to which the Owner Trustee is or is to become a party and the Unit 2 Operating Agreement.

(b) *Due Authorization; No Conflict.* The Trust Agreement and, to the extent Wilmington Trust Company is a party hereto in its individual capacity, this Agreement have been duly authorized by all necessary corporate action on the part of Wilmington Trust Company and have been duly executed and delivered by Wilmington Trust Company. Assuming the due authorization, execution and delivery of the Trust Agreement by the Owner Participant, each of the Transaction Documents to which the Owner Trustee is or is to become a party and the Unit 2 Operating Agreement have been, or on the Closing Date will have been, duly authorized, executed and delivered by the Owner Trustee. The execution, delivery and performance by Wilmington Trust Company of the Trust Agreement and, to the extent it is a party hereto in its individual capacity, this Agreement, and the execution, delivery and performance by the Owner Trustee of this Agreement, the other Transaction Documents to which it is or is to become a party and the Unit 2 Operating Agreement, do not, and on the Closing Date will not, (i) require any approval of the stockholders of Wilmington Trust Company or any approval or consent of any trustee or holders of any of the indebtedness or obligations of Wilmington Trust Company, (ii) contravene any Federal or Delaware law or any rule or regulation thereunder governing the banking, trust or fiduciary powers of Wilmington Trust Company or any order or judgment applicable to or binding on it, or (iii) contravene or result in any breach of or constitute any default under the charter or by-laws of Wilmington Trust Company or any indenture, mortgage, loan agreement, lease or other agreement or instrument to which Wilmington Trust Company is a party or by which Wilmington Trust Company or any of its properties is bound.

(c) *Enforceability.* The Trust Agreement constitutes the legal, valid and binding obligation of Wilmington Trust Company, enforceable against Wilmington Trust Company in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity. This Agreement, each of the other Transaction Documents to which the Owner Trustee is or is to become a party and the Unit 2 Operating Agreement constitute, or when executed and delivered by the Owner Trustee will constitute, the legal, valid and binding obligations of the Owner Trustee, enforceable against the Owner Trustee in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(d) *Litigation.* There is no action, suit or proceeding pending or, to the knowledge of Wilmington Trust Company, threatened against Wilmington Trust Company (as the Owner Trustee or in its individual capacity) before or by any Governmental Authority that questions the validity or enforceability of this Agreement, the Trust Agreement or any other Transaction Document to which Wilmington Trust Company (as the Owner Trustee or in its individual capacity) is or is to become a party or that, if adversely decided, will materially adversely affect the ability of Wilmington Trust Company to perform its obligations under the Transaction Documents to which Wilmington Trust Company (as the Owner Trustee or in its individual capacity) is or is to become a party.

(e) *Securities Act.* Neither Wilmington Trust Company nor anyone authorized to act on its behalf has offered (or, on the Closing Date, will have offered), directly or indirectly, any interest in the Undivided Interest, the Trust Estate, the Lease Indenture Estate, the Lease, the Initial

Series Notes or any similar securities of the Lessee or the Owner Trustee for sale to, or solicited any offer to acquire any of the same from, any Person.

(f) *Notes.* Upon execution of any Note to be issued by the Owner Trustee hereunder and under the Indenture, authentication thereof by the Indenture Trustee pursuant to the Indenture and delivery thereof against payment therefor in accordance with this Agreement and the Indenture, such Note will be the legal, valid and binding obligation of the Owner Trustee, enforceable against the Owner Trustee in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights generally.

(g) *No Lessor's Liens.* No Lessor's Lien is in existence. The execution, delivery and performance by Wilmington Trust Company of the Transaction Documents to which it is or is to become a party will not subject the Trust Estate or the Lease Indenture Estate, or any portion of either thereof, to any Lessor's Lien.

(h) *Location of Chief Executive Office.* The chief executive office and place of business of Wilmington Trust Company and the office where it keeps its records concerning its accounts relating to the transactions contemplated hereby is located at Rodney Square North, Wilmington, Delaware 19890.

SECTION 5.05. **Representations and Warranties of Indenture Trustee.** The Connecticut National Bank, in its individual capacity, represents and warrants to each of the other parties hereto as follows:

(a) *Due Organization.* The Connecticut National Bank is a national banking association duly organized, validly existing and in good standing under the laws of the United States of America, and has the corporate power and authority to enter into and perform its obligations under the Transaction Documents to which it is or is to become a party.

(b) *Due Authorization; No Conflict.* Each of the Transaction Documents to which The Connecticut National Bank is or is to become a party (as the Indenture Trustee and, to the extent expressly so provided therein, in its individual capacity) has been duly authorized by all necessary corporate action on the part of The Connecticut National Bank and has been, or on the Closing Date will have been, duly executed and delivered by The Connecticut National Bank (as the Indenture Trustee or in its individual capacity, as the case may be), and the execution, delivery and performance thereof do not, and on the Closing Date will not, (i) require any approval of the stockholders of The Connecticut National Bank or any approval or consent of any trustee or holders of any indebtedness or obligations of The Connecticut National Bank, (ii) contravene any Federal or Connecticut law or any rule or regulation thereunder governing the banking, trust or fiduciary powers of The Connecticut National Bank or any order or judgment applicable to or binding on it, or (iii) contravene or result in any breach of or constitute any default under the articles of association or by-laws of The Connecticut National Bank or any indenture, mortgage, loan agreement, lease or other agreement or instrument to which The Connecticut National Bank is a party or by which any of its properties is bound.

(c) *Enforceability.* Each of the Transaction Documents to which The Connecticut National Bank is or is to become a party constitutes, or when executed and delivered by The Connecticut National Bank (as the Indenture Trustee or in its individual capacity, as the case may be) will constitute, the legal, valid and binding obligation of The Connecticut National Bank (as the Indenture Trustee or in its individual capacity, as the case may be), enforceable against The Connecticut National Bank (as the Indenture Trustee or in its individual capacity, as the case may be) in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(d) *Litigation.* There is no action, suit or proceeding pending or, to the knowledge of The Connecticut National Bank, threatened against The Connecticut National Bank (as the Indenture

Trustee or in its individual capacity) before or by any Governmental Authority governing the banking, trust or fiduciary powers of The Connecticut National Bank that questions the validity or enforceability of this Agreement or any other Transaction Document to which The Connecticut National Bank is or is to become a party or that will materially adversely affect the ability of The Connecticut National Bank to perform its obligations under the Transaction Documents to which The Connecticut National Bank (as the Indenture Trustee or in its individual capacity) is or is to become a party.

(e) *No Indenture Trustee's Liens.* No Indenture Trustee's Lien is in existence.

SECTION 5.06. Representations and Warranties of Funding Corporation. Funding Corporation represents and warrants to each of the other parties hereto as follows:

(a) *Due Organization.* Funding Corporation is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has the corporate power and authority to conduct its business as now conducted, to own or hold under lease its properties and to enter into and perform its obligations under this Agreement.

(b) *Due Authorization; No Conflict.* This Agreement has been duly authorized by all necessary corporate action on the part of Funding Corporation and has been duly executed and delivered by Funding Corporation, and the execution, delivery and performance hereof do not, and on the Closing Date will not, (i) require any approval of the stockholders of Funding Corporation or any approval or consent of any trustee or holders of any indebtedness or obligation of Funding Corporation, (ii) contravene any Applicable Law binding on Funding Corporation or (iii) contravene or result in any breach of or constitute any default under, or result in the creation of any Lien upon any property of Funding Corporation under, Funding Corporation's charter or by-laws or any indenture, mortgage, loan agreement, lease or other agreement or instrument to which Funding Corporation is a party or by which it or any of its properties is bound.

(c) *Enforceability.* This Agreement constitutes the legal, valid and binding obligation of Funding Corporation, enforceable against Funding Corporation in accordance with the terms hereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(d) *Litigation.* There is no action, suit or proceeding pending or, to the knowledge of Funding Corporation, threatened against Funding Corporation before or by any Governmental Authority that questions the validity or enforceability of this Agreement or that, if determined adversely to Funding Corporation, would materially adversely affect the ability of Funding Corporation to perform its obligations under this Agreement.

(e) *No Other Business.* Except as contemplated by this Agreement and the other Transaction Documents and except as otherwise contemplated by the Section 6(c) Application, Funding Corporation has not engaged in any business or activity of any type or kind whatever.

(f) *ERISA.* Funding Corporation will not acquire any Note with the "plan assets" of any "employee benefit plan" as defined in Section 3(3) of ERISA or any "plan" as defined in Section 4975(e)(1) of the Code.

(g) *Investment Representations.* Funding Corporation will acquire each Note to be acquired by it hereunder and under the Indenture solely for purposes of pledging such Note to the Collateral Trust Trustee to secure Bonds issued from time to time under the Collateral Trust Indenture. Funding Corporation understands that no Note to be acquired by it hereunder or under the Indenture will have been registered under the Securities Act and that each such Note will bear a legend to that effect.

ARTICLE VI

COVENANTS AND AGREEMENTS

SECTION 6.01. Covenants and Agreements of Lessee. The Lessee covenants and agrees with each of the other parties hereto as follows:

(a) *Financial and Other Information.* The Lessee shall deliver to the Owner Participant and the Loan Participants (and, in the case of Sections 6.01(a)(iii), (iv) and (v), the Owner Trustee), the following financial and other information:

(i) as soon as practicable, but in any event within 120 days after the end of each fiscal year of the Lessee, a balance sheet of the Lessee as at the end of such fiscal year and the related statements of income, cash flow and retained earnings of the Lessee for such year, accompanied by a report thereon by such nationally recognized firm of independent public accountants as the Lessee may select, and a consolidated balance sheet of AEP and its subsidiaries as at the end of such fiscal year and the related consolidated statements of income, cash flow and retained earnings of AEP and its subsidiaries for such year, accompanied by a report thereon by such nationally recognized firm of independent public accountants as AEP may select;

(ii) promptly after the sending or filing thereof, copies of each Form 10-Q (or any form or forms which may be substituted for any of the foregoing) which the Lessee or AEP files with the SEC or any successor governmental authority; *provided, however,* that if at any time the Lessee or AEP shall no longer be required to file such financial statements with the SEC, the Lessee or AEP, as the case may be, shall deliver unaudited financial statements of the type theretofore filed, within the time periods theretofore applicable to such reports filed with the SEC;

(iii) promptly upon the Lessee becoming aware of the existence thereof, notice specifying any condition that constitutes a Default, an Event of Default, an Indenture Default, an Indenture Event of Default, an Event of Loss or Deemed Loss Event;

(iv) within 120 days after the end of each fiscal year of the Lessee, a certificate of the Lessee, signed by a Responsible Officer of the Lessee, to the effect that (x) such officer has reviewed, or caused to be reviewed by individuals under his supervision, this Agreement and each other Transaction Document to which the Lessee is a party and has made, or caused to be made under his supervision, a review of the transactions contemplated hereby and thereby and the condition of the Lessee during such preceding fiscal year, and such review has not disclosed the existence during such fiscal year, nor does such officer have knowledge of the existence as at the date of such certificate, of any condition or event that constitutes a Default, an Event of Default or an Event of Loss or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and any action the Lessee has taken, is taking or proposes to take with respect thereto, and (y) such officer has no actual knowledge of a Deemed Loss Event;

(v) within 30 days after the Lessee becomes aware of the existence thereof, notice and a reasonably detailed description of any environmental investigation or proceeding relating to Unit 2, the Common Facilities or the Rockport Plant Site under statutes pursuant to which liability may be imposed upon the Owner Participant or the Owner Trustee; and

(vi) with reasonable promptness, unless disclosure thereof is prohibited by Applicable Law and subject to applicable confidentiality undertakings with respect thereto, such other data and information as to the business of the Lessee or as to Unit 2 or the Rockport Plant as from time to time may be reasonably requested by the Owner Participant.

(b) *Further Assurances.* The Lessee shall cause to be promptly and duly taken, executed, acknowledged and delivered all such further acts, documents and assurances as the Owner Participant, the Owner Trustee or the Indenture Trustee from time to time may reasonably request in order to carry out more effectively the intent and purposes of this Agreement, the other

Transaction Documents and the Financing Documents, and the transactions contemplated hereby and thereby. The Lessee shall cause the financing statements (and continuation statements with respect thereto) and the documents enumerated and described in Schedule 4, and all other documents necessary in that connection, to be recorded or filed at such places and times, and in such manner, and shall take, or shall cause to be taken, all such other action as may be necessary or reasonably requested by the Owner Participant, the Owner Trustee or the Indenture Trustee in order to establish, preserve, protect and perfect the title of the Owner Trustee to the Undivided Interest and the interest of the Owner Trustee in the Unit 2 Site Interest and, so long as any Notes are Outstanding, the lien and security interest of the Indenture Trustee in the properties, rights and interests constituting the Lease Indenture Estate.

(c) *Maintenance of Corporate Existence, etc.* The Lessee at all times shall maintain its existence as a corporation under the laws of the State of Ohio, except as permitted by Section 6.01(d), and shall qualify and remain qualified to do business in each jurisdiction where the failure so to qualify would materially adversely affect the business or financial condition of the Lessee or its ability to perform its obligations under the Transaction Documents to which the Lessee is a party.

(d) *Consolidation, Merger, Sale, etc.* The Lessee shall not consolidate with any Person, merge with or into any Person, or convey, transfer or lease to any Person all or substantially all of its assets in any single transaction (or series of related transactions), unless, immediately after giving effect to such transaction, (i) if such Person is an Affiliate of the Lessee, the conditions set forth in clauses (A) through (D) below shall have been satisfied, or (ii) if such Person is not an Affiliate of the Lessee:

(A) the Person formed by such consolidation or with or into which the Lessee shall be merged or the Person which shall acquire by conveyance, transfer or lease all or substantially all of the assets of the Lessee (the "*Surviving Lessee*") shall be a corporation that (1) is organized under the laws of the United States of America, a state thereof or the District of Columbia, (2) as a substantial part of its business, supplies electric energy to retail or wholesale customers at rates or tariffs that are regulated by either a state or Federal regulatory commission, and (3) shall have assumed each obligation, and succeeded to each right, of the Lessee under the Rockport Plant Agreements;

(B) the Surviving Lessee, if other than the Lessee immediately prior to such transaction, shall execute and deliver to each of the parties hereto an agreement, in form and substance reasonably satisfactory to the Owner Participant and the Indenture Trustee, containing the assumption by the Surviving Lessee of each obligation of the Lessee under this Agreement and each other Transaction Document and each Financing Document to which, immediately prior to such transaction, the Lessee was a party;

(C) no Event of Default shall have occurred and be continuing and no Event of Loss or Deemed Loss Event shall have occurred;

(D) the Surviving Lessee shall have delivered to each of the parties hereto an Officers' Certificate stating that such transaction complies with this Section 6.01(d), that all conditions to the consummation of such transaction have been fulfilled and that all Governmental Action required in connection with such transaction has been obtained, given or made; and

(E) either (i) the senior debt obligations of the Surviving Lessee are rated by Moody's or by Standard & Poor's not lower than the senior debt obligations of the Lessee immediately prior to such transaction (or if such rating organizations shall no longer exist, by such other nationally recognized statistical rating organization as shall be specified by the Owner Participant), or (ii) if the senior debt obligations of the Lessee or the Surviving Lessee are not so rated at the time of such transaction, the Surviving Lessee shall have a consolidated net worth (exclusive of goodwill) not less than the consolidated net worth (exclusive of goodwill) of the Lessee immediately prior to such transaction.

Upon the consummation of such transaction, the Surviving Lessee, if other than the Lessee immediately prior thereto, shall succeed to, and be substituted for, and may exercise every right and power of, the Lessee immediately prior to such transaction under this Agreement and each other Transaction Document and each Financing Document to which the Lessee was a party immediately prior to such transaction, with the same effect as if the Surviving Lessee had been named herein and therein.

Notwithstanding the foregoing provisions of this Section 6.01(d), no conveyance, transfer or lease of all or substantially all of the assets of the Lessee shall release the Lessee from its payment obligations under this Agreement without the written consent of the Owner Participant.

(e) *Change in Chief Executive Office.* The Lessee shall notify the Owner Trustee, the Owner Participant and the Indenture Trustee promptly after any change in its chief executive office and place of business or the office where it keeps its records concerning its accounts.

(f) *No-Petition Agreement.* Following the issuance of the initial series of Bonds and prior to the 181st day following the payment in full of the Bonds and the discharge in accordance with its terms of the Collateral Trust Indenture, the Lessee shall not file a petition, or join in the filing of a petition, seeking any reorganization, arrangement, adjustment or composition of or in respect of Funding Corporation under the Bankruptcy Code or any other Applicable Law.

(g) *Performance and Enforcement of Agreements.* Except where the failure to do so would not have a material adverse effect on Unit 2 (including the Undivided Interest) or the rights and benefits of the Owner Participant, the Loan Participants, the Owner Trustee or the Indenture Trustee under any Transaction Document or Financing Document, the Lessee at all times, unless the Owner Participant shall otherwise consent, (i) shall perform and comply with the terms of the Rockport Plant Operating Agreement and the Unit 2 Operating Agreement, (ii) shall keep unimpaired all of the Lessee's rights, powers and remedies under the Rockport Plant Operating Agreement and the Unit 2 Operating Agreement and shall prevent any forfeiture or impairment thereof, (iii) shall enforce the Rockport Plant Operating Agreement and the Unit 2 Operating Agreement in accordance with the terms thereof, (iv) shall not take, fail to take or join in any action with respect to the Rockport Plant Operating Agreement or the Unit 2 Operating Agreement that results in a breach thereof, and (v) shall not accept, approve or consent to any amendment or modification of the Rockport Plant Operating Agreement or the Unit 2 Operating Agreement if such amendment or modification would have a materially adverse effect upon the right, title and interest of the Owner Trustee in and to the Undivided Interest or the Unit 2 Site Interest or upon the lien and security interest of the Indenture Trustee in the properties, rights and interests constituting the Lease Indenture Estate or upon the rights and benefits of the Owner Participant, the Loan Participants, the Owner Trustee or the Indenture Trustee under the Transaction Documents or the Unit 2 Operating Agreement, or upon the value, utility or economic life of the Undivided Interest, it being understood that any amendment or modification having any of the following effects shall be deemed to materially adversely affect such rights and benefits: (A) relief by or of the Lessee of any obligation under the Rockport Plant Operating Agreement or the Unit 2 Operating Agreement in respect of the Undivided Interest; or (B) imposition, directly or indirectly, at any time on the Owner Trustee or the Owner Participant of any material obligation in addition to those contemplated by the Transaction Documents. The Lessee shall provide copies of any proposed amendment or modification of the Rockport Plant Operating Agreement or the Unit 2 Operating Agreement to the Owner Participant and the Owner Trustee not less than 45 days prior to the execution thereof by the Lessee (except where the Lessee is unaware thereof 45 days prior to such execution, in which case the Lessee shall provide notice thereof as promptly as possible after becoming so aware) and, upon execution thereof, shall furnish to the Owner Participant, the Owner Trustee and the Indenture Trustee a copy of any such amendment or modification as executed.

(h) *Cooperation.* Upon the request of the Owner Participant or the Owner Trustee, the Lessee shall cooperate with the Owner Participant and the Owner Trustee in obtaining the valid and effective issuance, or, as the case may be, transfer or amendment of all Governmental Action necessary or, in the reasonable opinion of the Owner Participant, desirable for the ownership, operation and possession of the Undivided Interest or any portion of Unit 2 represented thereby or any property purported to be covered by the Ground Lease by the Owner Trustee or any transferee, lessee or assignee thereof for the period after the Lease Termination Date to the expiration or termination of the Ground Lease Term.

(i) *Limitation on Certain Rights of the Lessee.* The Lessee shall not exercise its rights under Section 13(a), 13(b) or 14(a) of the Lease, as the case may be, unless the Lessee concurrently shall be exercising all similar rights it may have under other leases relating to undivided interests in Unit 2 and, in the case of the Lessee's exercise of its rights under said Section 14(a), unless I&M concurrently shall be exercising all similar rights it may have under leases relating to undivided interests in Unit 2.

(j) *Lessee Undertaking.* The Lessee shall not take any action (or omit to take any action), whether by voting (or failing to vote) in meetings of the Rockport Plant Companies or otherwise, the taking or omission of which will materially adversely affect the operation, safety, capacity, economic useful life or any other aspect of Unit 2 (including the Undivided Interest).

(k) *Capital Funds Agreement and Unit Power Agreement.* The Lessee shall not, without the prior written consent of the Owner Participant and a Majority in Interest of Holders of Notes, approve, agree or consent to any amendment, modification, supplement, waiver, termination, assignment, transfer or pledge of the Capital Funds Agreement or the Unit Power Agreement that could have a material adverse effect on its ability to perform its obligations under the Transaction Documents, and any such attempted amendment, modification, supplement, waiver, termination, assignment, transfer or pledge shall be null and void. The Lessee shall perform its obligations under the Capital Funds Agreement, and shall take such action as may be necessary to enforce its rights thereunder if the failure to do so could affect its ability to pay and perform its obligations under the Lease and the other Transaction Documents as and when required. Without limiting any right or remedy which the Owner Participant and the Owner Trustee may have at law or in equity as a result of such breach, the Lessee agrees that a breach by it of the covenant contained in the preceding sentence will cause irreparable injury to the Owner Participant and the Owner Trustee and that the Owner Participant and the Owner Trustee have no adequate remedy at law in respect of such breach and, as a consequence, the Lessee agrees that the covenant contained in the immediately preceding sentence shall be specifically enforceable by the Owner Participant and the Owner Trustee against it and it waives and agrees not to assert any defense against an action for specific performance of such covenant except for a defense that such covenant has not been breached.

(l) *Purchase of Notes by Lessee Prohibited.* Neither the Lessee nor any Tax Affiliate will directly or indirectly acquire any interest in any Note.

SECTION 6.02. **Covenants and Agreements of Owner Participant.** The Owner Participant covenants and agrees with each of the other parties hereto as follows:

(a) *No Owner Participant's Liens.* The Owner Participant shall not, directly or indirectly, create, incur, assume or suffer to exist, and, at its own cost and expense (without any right of indemnity under this Agreement or any other Transaction Document), shall promptly take such action as may be necessary duly to discharge, any Owner Participant's Lien, except for any Owner Participant's Lien that has been bonded for the full amount in dispute or as to which other security arrangements satisfactory to the Lessee and the Indenture Trustee shall have been made and that is being contested by the Owner Participant in good faith and by appropriate proceedings diligently conducted, so long as such proceedings do not (i) involve any danger of the sale, forfeiture or loss of the Undivided Interest, the Unit 2 Site Interest or the Easements or any part thereof or interest therein, (ii) interfere with the use, possession or disposition of the Undivided Interest, the Unit 2 Site Interest or the Easements or any part thereof or interest therein or (iii) interfere with the payment of Rent.

(b) *Quiet Enjoyment.* The Owner Participant acknowledges, and agrees to be bound by, the provisions of Section 6(a) of the Lease and Section 6.04(e) of this Agreement.

(c) *No-Petition Agreement.* Following the issuance of the initial series of Bonds and prior to the 181st day following the payment in full of the Bonds and the discharge in accordance with its terms of the Collateral Trust Indenture, the Owner Participant shall not file any petition, or join in the filing of any petition, seeking any reorganization, arrangement, adjustment or composition of or in respect of Funding Corporation under the Bankruptcy Code or any other Applicable Law.

(d) *Payment of Adjustment Verification Expenses, etc.* The Owner Participant shall pay any expenses for which it may be responsible pursuant to the fifth sentence of Section 3(e)(ii) of the Lease. The Owner Participant shall provide appropriate instructions to the Owner Trustee and shall cooperate with the Owner Trustee in connection with the financing of Modifications pursuant to Section 8(e) of the Lease and shall otherwise comply with the provisions of said Section 8(e).

(e) *Amendments of Trust Agreement.* The Owner Participant agrees that, prior to the Lease Termination Date, the Owner Participant shall not amend or supplement, or consent to any amendment of or supplement to, the Trust Agreement without the prior written consent of the Lessee if such amendment or supplement would materially and adversely affect the rights or obligations of the Lessee under this Agreement, the Lease, any other Transaction Document or the Unit 2 Operating Agreement. The Owner Participant agrees that it will not terminate or revoke the Trust Agreement or the trusts thereby created so long as any of the Notes remain Outstanding or any obligations under the Indenture remain unpaid or the lien and security interest of the Indenture have not been satisfied and discharged.

SECTION 6.03. **Covenants and Agreements of Original Loan Participants.** Each Original Loan Participant covenants and agrees with each of the other parties hereto that any transfer of any Initial Series Note acquired by it hereunder shall not be effective as against the other parties to this Agreement unless the transferee shall deliver to the Lessee, the Owner Participant, the Owner Trustee and the Indenture Trustee a written agreement to be bound by all the terms and provisions of this Agreement and the Indenture as though such transferee were an Original Loan Participant, which agreement shall contain a representation and warranty of such transferee that all representations and warranties of the Original Loan Participant contained in this Agreement are on the date of transfer true and correct as to such transferee (with all references to the Closing Date being changed as appropriate); *provided, however,* that, if Funding Corporation is a transferee of any Initial Series Note, such agreement need not contain the representation and warranty set forth in the first sentence of Section 5.03(a).

SECTION 6.04. **Covenants and Agreements of Owner Trustee.** Wilmington Trust Company, in its individual capacity, or, as to the second sentence of paragraph (b) below and as to paragraph (f) below, as Owner Trustee, covenants and agrees with each of the other parties hereto as follows:

(a) *Lessor's Liens.* Wilmington Trust Company shall not, directly or indirectly, create, incur or suffer to exist, and, at its own cost and expense (without any right of indemnity under this Agreement, the Trust Agreement or any other Transaction Document), shall promptly take such action as may be necessary duly to discharge, any Lessor's Lien.

(b) *Amendments of Trust Agreement.* Wilmington Trust Company agrees that, prior to the Lease Termination Date, Wilmington Trust Company shall not amend or supplement, or consent to any amendment of or supplement to, the Trust Agreement without the prior written consent of the Lessee unless it has determined in good faith that such amendment or supplement would not materially and adversely affect the rights or obligations of the Lessee under this Agreement, the Lease, any other Transaction Document or the Unit 2 Operating Agreement. The Owner Trustee agrees that, unless an Event of Default shall have occurred and be continuing, the Owner Trustee will not amend any of the payment terms of any Note.

(c) *Change in Chief Executive Office.* Wilmington Trust Company shall notify the Lessee, the Owner Participant, the Indenture Trustee and Funding Corporation promptly after any change in its chief executive office and place of business or the office where it keeps its records concerning its accounts relating to the transactions contemplated hereby.

(d) *No-Petition Agreement.* Following the issuance of the initial series of Bonds and prior to the 181st day following the payment in full of the Bonds and the discharge in accordance with its terms of the Collateral Trust Indenture, Wilmington Trust Company (as the Owner Trustee and in its individual capacity) agrees that it will not file a petition, or join in the filing of a petition, seeking reorganization, arrangement, adjustment or composition of or in respect of Funding Corporation under the Bankruptcy Code or any other Applicable Law.

(e) *Quiet Enjoyment.* Wilmington Trust Company acknowledges, and agrees to be bound by, Section 6(a) of the Lease.

(f) *Financing of Modifications.* The Owner Trustee shall cooperate with the Owner Participant and the Lessee in connection with the financing of Modifications pursuant to Section 8(e) of the Lease.

SECTION 6.05. **Covenants and Agreements of Indenture Trustee.** The Connecticut National Bank, as the Indenture Trustee and in its individual capacity, covenants and agrees with each of the other parties hereto as follows:

(a) *Indenture Trustee's Liens.* The Connecticut National Bank shall not, directly or indirectly, create, incur or suffer to exist, and, at its own cost and expense (without any right of indemnity under this Agreement, the Indenture or any other Transaction Document), shall promptly take such action as may be necessary duly to discharge, any Indenture Trustee's Lien.

(b) *No-Petition Agreement.* Following the issuance of the initial series of Bonds and prior to the 181st day after the payment in full of the Bonds and the discharge in accordance with its terms of the Collateral Trust Indenture, The Connecticut National Bank (as the Indenture Trustee and in its individual capacity) agrees that it will not file any petition, or join in the filing of a petition, seeking a reorganization, arrangement, adjustment or composition of or in respect of Funding Corporation under the Bankruptcy Code or any other Applicable Law.

(c) *Quiet Enjoyment.* The Connecticut National Bank (as the Indenture Trustee and in its individual capacity) acknowledges, and agrees to be bound by, Section 6(a) of the Lease.

SECTION 6.06. **Covenants and Agreements of Funding Corporation.** Funding Corporation covenants and agrees with each of the other parties hereto as follows:

(a) *Transfers of Notes.* Any transfer or assignment of any Note acquired by it or of all or any part of Funding Corporation's interest hereunder or under any other Transaction Document or any Financing Document shall be effected in a transaction constituting an exempt transaction under the Securities Act and the rules and regulations of the SEC thereunder and on the express condition that the transferee, assignee or participant shall agree in writing to be bound by the provisions hereof and thereof. Funding Corporation shall not sell, exchange or transfer any Note to any other Person (other than the Collateral Trust Trustee) unless such transferee delivers to the Lessee, the Owner Participant, the Owner Trustee and the Indenture Trustee a representation and warranty to the effect that neither the transfer of such Note to, nor the ownership of such Note by, such transferee will cause such transferee, or any such Persons, to be engaged in a "prohibited transaction", as defined in Section 406 of ERISA or Section 4975 of the Code, which is not at such time subject to an exemption contained in ERISA or in the rules, regulations, releases or bulletins adopted thereunder.

(b) *Prepayment of Bonds.* Funding Corporation shall not refinance or optionally prepay any Bond issued in connection with any Note except in connection with a refinancing or optional prepayment of such Note.

(c) *Quiet Enjoyment.* Funding Corporation acknowledges, and agrees to be bound by, Section 6(a) of the Lease.

(d) *No Other Business.* Funding Corporation will not (i) engage in any business or activity other than in connection with the Transaction Documents or as otherwise contemplated by the Section 6(c) Application or (ii) amend, or engage in any activity or take any action not permitted by, Article Third of its Certificate of Incorporation, as in effect on the date of execution and delivery of this Agreement, without, in each case, the consent of the Lessee, the Owner Participant, the Owner Trustee and the Indenture Trustee.

SECTION 6.07. **No Partition.** Each of the Owner Participant and the Owner Trustee hereby waives any right that either or both of them may have to partition Unit 2 or the Unit 2 Site or the Rockport Plant Site during the Ground Lease Term, whether by partition in kind or by sale and division of the proceeds, and each of them further agrees that, during the Ground Lease Term, it will not resort to any action at law or in equity to partition Unit 2 or the Unit 2 Site or the Rockport Plant Site, and each of them hereby waives the benefits of all laws that may now or hereafter authorize such partition.

ARTICLE VII
INDEMNITIES

SECTION 7.01. **General Indemnity.** The Lessee agrees, whether or not any of the transactions contemplated hereby are consummated, to indemnify on an After-Tax Basis each Indemnitee against, and to protect, save and keep harmless each Indemnitee from, any and all Expenses that may be imposed on, incurred by or asserted against such Indemnitee in any way relating to or arising out of: (a) the Rockport Plant (including Unit 2 and the Undivided Interest), the Rockport Plant Site (including the Unit 2 Site, the Unit 2 Site Interest and the Easements) or the Common Facilities or any part thereof or interest therein; (b) any of the Transaction Documents or any of the transactions contemplated thereby, other than Transaction Expenses that are the responsibility of the Owner Trustee pursuant to Section 9.01 and Expenses incurred by the Indemnitees in connection with a transfer by the Owner Participant to which Article VIII applies; (c) the construction, preparation, installation, inspection, delivery, non-delivery, acceptance, rejection, purchase, ownership, possession, rental, lease, sublease, maintenance, repair, storage, transfer of title, redelivery, use, operation, condition, sale, return or other application or disposition of all or any part of any interest in the Rockport Plant (including Unit 2 and the Undivided Interest), the Rockport Plant Site (including the Unit 2 Site, the Unit 2 Site Interest and the Easements) or the Common Facilities, or the imposition of any Lien (or incurrence of any liability to refund or pay over any amount as a result of any Lien) thereon, including, without limitation, (i) claims or penalties arising from any violation of law or in tort (strict or otherwise), (ii) loss of or damage to any property or the environment (including, without limitation, clean-up costs, response costs, costs of corrective action, costs of financial assurance and natural resource damages), or death or injury to any Person, (iii) latent or other defects, whether or not discoverable, and (iv) any claim for patent, trademark or copyright infringement; and (d) the operation, use, possession or ownership by any Person of the remaining interest in the Rockport Plant, the Rockport Plant Site or the Common Facilities; *provided, however,* that the foregoing indemnity shall not extend to any Expense imposed on, incurred by or asserted against any Indemnitee to the extent the same relates to or arises out of one or more of the following circumstances:

(1) the incorrectness of any representation or warranty of such Indemnitee contained in or made pursuant to this Agreement or any of the other Transaction Documents;

(2) the failure of such Indemnitee to perform or observe any covenant, agreement or condition on its part required to be performed or observed in this Agreement or any of the other Transaction Documents;

(3) the willful misconduct or gross negligence of such Indemnitee or of its successors, assigns, agents, officers, directors or employees;

(4) a disposition (voluntary or involuntary) by the Owner Trustee or the Owner Participant of all or any part of its interest in the Trust Estate, the Undivided Interest, the Unit 2 Site Interest, the Easements, the Lease or any of the other properties, rights and interests constituting the Trust Estate, other than pursuant to Section 8, 9(c), 9(d) or 14 of the Lease or while an Event of Default shall have occurred and be continuing, or by any other Indemnitee of all or any part of such Indemnitee's interest in the Undivided Interest, the Unit 2 Site Interest, the Easements,

the Lease or any of the other properties, rights and interests constituting the Trust Estate or the Lease Indenture Estate, or the Notes, except, in the case of the Indenture Trustee, any such disposition that occurs as a result of an Event of Default;

(5) any Tax, whether or not the Lessee is required to indemnify for such Tax pursuant to Section 7.02 or the Tax Indemnification Agreement (it being understood that Sections 7.02 through 7.06 and the Tax Indemnification Agreement exclusively provide for the Lessee's liability with respect to Taxes);

(6) acts or events that occur after the earlier of (x) the surrender of possession of the Undivided Interest and the Unit 2 Site Interest pursuant to Section 5 of the Lease or (y) the expiration or termination of the Lease Term;

(7) the offer or sale by or on behalf or for the account of any Indemnitee of any interest in the Trust Estate or the Trust Agreement or any similar interest;

(8) a failure on the part of the Indenture Trustee or the Owner Trustee, as the case may be, to distribute in accordance with the Indenture or the Trust Agreement, as the case may be, any amounts received and distributable by it thereunder;

(9) the authorization or giving or withholding of any amendment, modification, supplement, waiver, termination, approval or consent with respect to this Agreement or any of the other Transaction Documents other than such as have been requested by the Lessee;

(10) any Expense that is (x) included in Transaction Expenses and for which the Owner Trustee or the Owner Participant is responsible pursuant to Section 9.01, (y) incurred by any Indemnitee (or any successor, assign, agent, officer, director or employee of such Indemnitee) to the extent that such Indemnitee shall have expressly agreed in this Agreement or any other Transaction Document or otherwise to bear such Expense without right of reimbursement or indemnity under this Agreement or any other Transaction Document, or (z) in the case of any Holder of a Note, except as otherwise expressly provided in the Indenture, any loss of anticipated cash flow or earnings on any Note by reason of any redemption or prepayment of such Note permitted by this Agreement or any of the other Transaction Documents;

(11) any amount constituting an amount payable by the Owner Trustee under the Indenture or the Notes resulting from an Indenture Event of Default that does not also constitute an Event of Default; or

(12) any Expense that would not have been incurred but for the appointment of a successor Owner Trustee if such appointment was caused by the Owner Participant.

Without limitation of the foregoing, whether or not any of the transactions contemplated hereby are consummated, except to the extent that any of the items hereinafter described are Transaction Expenses that are the responsibility of the Owner Trustee pursuant to Section 9.01, the Lessee shall pay: (a) the fees (whether ordinary or extraordinary), expenses and disbursements of the Indenture Trustee, as trustee under the Indenture, with respect to the administration of the Lease Indenture Estate, including the reasonable fees and expenses of its counsel; (b) the fees (whether ordinary or extraordinary), expenses and disbursements of the Owner Trustee, as trustee under the Trust Agreement, with respect to the administration of the Trust Estate, including the reasonable fees and expenses of its counsel; and (c) all the costs and expenses incurred by the Owner Participant, the Loan Participants, the Owner Trustee, the Indenture Trustee and Funding Corporation in connection with (i) the entering into or giving or withholding of any proposed amendment, modification, supplement, waiver, termination, approval or consent requested by the Lessee or (ii) any Event of Loss or Deemed Loss Event or any redemption, prepayment, refinancing or assumption of the Notes.

If the Lessee shall obtain knowledge of any Expense indemnified against under this Section 7.01, the Lessee shall give prompt notice thereof to the appropriate Indemnitee or Indemnitees, and if any Indemnitee shall obtain any such knowledge, such Indemnitee shall give prompt notice thereof to the Lessee. With respect to any amount that the Lessee is requested by an Indemnitee to pay by reason of this Section 7.01, such Indemnitee shall, if so requested by the Lessee and prior to any payment, submit such additional information to the Lessee as the Lessee may reasonably request properly to substantiate the requested payment.

In case any action, suit or proceeding shall be brought against any Indemnitee, such Indemnitee shall notify the Lessee of the commencement thereof (but the failure to do so shall not relieve the Lessee of its obligation to indemnify such Indemnitee except to the extent that the Lessee is prejudiced as a result of such failure), and the Lessee shall be entitled, at its expense, acting through counsel acceptable to such Indemnitee, to participate in, and, to the extent that the Lessee desires, to assume and control the defense thereof; *provided, however,* that the Lessee shall not be entitled to assume and control the defense of any such action, suit or proceeding if and to the extent that, in the opinion of such Indemnitee, such action, suit or proceeding involves the potential imposition of criminal liability on such Indemnitee or a conflict of interest between such Indemnitee and the Lessee or entails a reasonable possibility of compromising or jeopardizing any substantial interest of such Indemnitee. Such Indemnitee shall be entitled, at its expense, acting through counsel acceptable to the Lessee, to participate in any action, suit or proceeding the defense of which has been assumed by the Lessee.

Each Indemnitee shall supply the Lessee with such information and documents requested by the Lessee as are necessary or advisable for the Lessee to participate in any action, suit or proceeding to the extent permitted by this Section 7.01. No Indemnitee shall enter into any settlement or other compromise with respect to any Expense without the prior written consent of the Lessee, which consent shall not be unreasonably withheld or delayed, unless such Indemnitee waives its right to be indemnified under this Section 7.01 with respect to such Expense.

Upon payment of any Expense by the Lessee pursuant to this Section 7.01 to or on behalf of an Indemnitee, the Lessee, without any further action, shall be subrogated to any and all claims that such Indemnitee may have relating thereto (other than claims in respect of insurance policies maintained by such Indemnitee at its own expense), and such Indemnitee shall cooperate with the Lessee and give such further assurances as are necessary or advisable to enable the Lessee vigorously to pursue such claims.

Nothing in this Section 7.01 shall be construed as a guaranty by the Lessee of any residual value in the Undivided Interest or as a guaranty of the Notes or any Bonds.

SECTION 7.02. **General Tax Indemnity.** Except as provided in Section 7.03, the Lessee shall pay on an After-Tax Basis, and on written demand shall indemnify and hold each Indemnitee harmless from and against, any and all Taxes imposed on or with respect to any Indemnitee, the Lessee, the Rockport Plant (including Unit 2 and the Undivided Interest), the Rockport Plant Site (including the Unit 2 Site, the Unit 2 Site Interest and the Easements) or the Common Facilities, or any portion thereof or interest therein, or any sublessee or user thereof, by any Federal, state or local government or other taxing authority in the United States or by any foreign government or subdivision or taxing authority thereof upon, in connection with or in any way relating to (a) the construction, preparation, installation, inspection, delivery, non-delivery, acceptance, rejection, purchase, ownership, possession, rental, lease, sublease, maintenance, repair, storage, transfer of title, redelivery, use, operation, condition, sale, return or other application or disposition of all or any part of any interest in the Rockport Plant (including Unit 2 and the Undivided Interest), the Rockport Plant Site (including the Unit 2 Site, the Unit 2 Site Interest and the Easements) or the Common Facilities, or the imposition of any Lien (or incurrence of any liability to refund or pay over any amount as a result of any Lien) thereon, (b) the payment of the principal of or interest or premium on, or other amounts with respect to, the Notes, (c) the issuance and sale of the Notes, (d) the payment of Basic Rent or Supplemental Rent or the receipts or earnings arising from or received with respect to the Rockport Plant (including Unit 2 and the Undivided Interest), the Rockport Plant Site (including the Unit 2 Site, the Unit 2 Site Interest and the Easements) or the Common Facilities, or any part thereof or any interest therein or any applications or dispositions thereof, (e) any other amount paid or payable pursuant to any Transaction Documents, (f) the Rockport Plant (including Unit 2 and the Undivided Interest), the Rockport Plant Site (including the Unit 2 Site, the Unit 2 Site Interest and the Easements) or the Common Facilities, or any part thereof or any interest therein, (g) all or any of the Transaction Documents, any other documents contemplated thereby, and amendments and supplements thereto, and (h) otherwise with respect to or in connection with the transactions contemplated by the Transaction Documents.

SECTION 7.03. Exclusions from General Tax Indemnity. Section 7.02 shall not apply to:

(a) Taxes that are imposed on an Indemnitee by the United States Federal government based upon or measured by net income (including any minimum Taxes, withholding Taxes, any Taxes on or measured by items of tax preference, any superfund taxes, surcharges, additions to tax, penalties, fines or other charges in respect thereof);

(b) Taxes (other than Taxes in the nature of sales, use, rental or utilities Taxes and other than the Indiana tax on gross income imposed pursuant to Indiana Code, Title 6, Article 2.1) that are (i) imposed by any state or local jurisdiction or taxing authority within the United States or by any foreign country or governmental subdivision thereof or by any possession, territory or commonwealth of the United States and (ii) that are based upon or measured by net income or net receipts (including any minimum Taxes, withholding Taxes or Taxes on or measured by items of tax preference) or any value-added taxes or Taxes that are capital stock or franchise taxes or Taxes in the nature of doing business taxes (other than Taxes imposed pursuant to Indiana Code, Title 23, Article 5, Chapter 1);

(c) any Taxes imposed on an Indemnitee that are a result of such Indemnitee not being a citizen or resident of, or not being organized under the laws of, the United States or any political subdivision thereof;

(d) any Tax that is enacted or adopted as a direct substitute for or in lieu of any Tax that would not have been indemnified against pursuant to this Article VII;

(e) Taxes to the extent that such Taxes would not have been imposed if an Indemnitee or its Affiliate had not been engaged in activities or transactions unrelated to the transactions contemplated by the Transaction Documents;

(f) Taxes that are based on, or measured by, the fees or other compensation received by a Person acting as Owner Trustee, Indenture Trustee or Collateral Trust Trustee (in their respective individual capacities) or any Affiliate of any thereof for acting as trustees under the Trust Agreement, the Indenture or the Collateral Trust Indenture, respectively;

(g) Taxes that have not been paid or credited and that are being contested in accordance with the provisions of Section 7.04, during the pendency of such contest;

(h) Taxes that are imposed on any Indemnitee as a result of the gross negligence or willful misconduct of such Indemnitee or its Affiliate (other than gross negligence or willful misconduct imputed to such Indemnitee solely by reason of its interest in the Undivided Interest, the Unit 2 Site Interest or the Easements or its participation in the transactions contemplated by the Transaction Documents);

(i) Taxes that result from any act, event or omission (other than the payment of amounts described in the Transaction Documents), or are attributable to any period of time, that occurs after the earliest of (i) so long as no Event of Default shall have occurred and be continuing, the expiration of the Lease Term with respect to the Undivided Interest, (ii) the discharge in full of the Lessee's obligations to pay the Stipulated Loss Value or the Termination Value with respect to the Undivided Interest and (iii) so long as no Event of Default shall have occurred and be continuing, the return of possession of the Undivided Interest to the Lessor in accordance with Section 5 of the Lease;

(j) Taxes that result from any voluntary transfer (it being understood that the term "voluntary transfer" does not include any transfer provided for in the Transaction Documents except those provided for in Article VIII of this Agreement, including Section 14 of the Lease, or any transfer to the Lessee or its Affiliate) by an Indemnitee of any interest in the Rockport Plant (including Unit 2 and the Undivided Interest), the Rockport Plant Site (including the Unit 2 Site, the Unit 2 Site Interest and the Easements) or the Common Facilities, or any part thereof or any interest arising under the Transaction Documents or any Notes, or from any voluntary transfer of any interest in an Indemnitee or from any involuntary transfer of any of the foregoing interests in connection with any bankruptcy or other proceeding for the relief of debtors in which such Indemnitee is the debtor or any foreclosure by a creditor of an Indemnitee; *provided, however*, that this exception shall not apply if any such transfer shall occur at any time while an Event of Default shall have occurred and be continuing;

(k) any interest, penalties, fines or additions to Tax resulting (in whole or in part) from the failure of an Indemnitee to file any return properly and timely pursuant to its obligations under Section 7.07;

(l) any Taxes to the extent of the excess of such Taxes over the amount of such Taxes that would have been imposed had there not been a transfer of the Rockport Plant (including Unit 2 and the Undivided Interest), the Rockport Plant Site (including the Unit 2 Site, the Unit 2 Site Interest and the Easements) or the Common Facilities, or any interest therein or an interest arising under any Transaction Documents or any Notes by a predecessor in interest of the Indemnitee; *provided, however*, that this exception shall not apply if any such transfer shall occur at any time while an Event of Default shall have occurred and be continuing;

(m) Taxes that otherwise are the subject of an indemnity obligation of the Lessee to the extent such Taxes are actually utilized by the Indemnitee as a credit against Taxes otherwise payable by such Indemnitee that are not indemnified hereunder;

(n) any Taxes imposed on the Lessor that would not have been imposed but for Lessor's Liens, any Taxes imposed on the Owner Participant that would not have been imposed but for Owner Participant's Liens and any Taxes imposed on the Indenture Trustee that would not have been imposed but for Indenture Trustee's Liens; and

(o) any Tax on or with respect to an Indemnitee resulting from any amendment or modification entered into by such Indemnitee to any Transaction Document if the Lessee is not a party to such amendment or modification or has not consented to such amendment or modification, in each case unless an Event of Default shall have occurred and be continuing;

provided, however, that the foregoing paragraphs (a) through (o) shall not apply to any Tax imposed on Funding Corporation or the indenture estate under the Collateral Trust Indenture.

SECTION 7.04. Contests. (a) If any claim shall be made against any Indemnitee or if any proceeding shall be commenced against any Indemnitee (including a written notice of such proceeding) for any Taxes as to which the Lessee may have an indemnity obligation pursuant to Section 7.02, or if any Indemnitee shall determine that any Taxes as to which the Lessee may have an indemnity obligation pursuant to Section 7.02 may be payable, such Indemnitee shall promptly notify the Lessee in writing and shall not take any action with respect to such claim, proceeding or Tax without the consent of the Lessee for 30 days after receipt of such notice by the Lessee; *provided, however*, that if such Indemnitee shall be required by law or regulation to take action with respect to any such claim, proceeding or Tax prior to the end of such 30-day period, such Indemnitee shall, in such notice to the Lessee, so inform the Lessee, and such Indemnitee shall not take any action with respect to such claim, proceeding or Tax without the consent of the Lessee before the date on which such Indemnitee shall be required to take action. If within 30 days after its receipt of such notice the Lessee shall request in writing that such Indemnitee contest the imposition of such Taxes or the issue of creditability of such Taxes against Taxes otherwise payable by such Indemnitee that are not indemnified hereunder and, if the Lessee's long-term secured debt is not of Investment Grade Quality, shall provide satisfactory security to ensure payment of any amounts due or that may become due from the Lessee under this Article VII with respect to such Taxes, such Indemnitee shall at the expense of the Lessee (including, without limitation, all costs, expenses and reasonable attorneys' and accountants' fees and disbursements) in good faith contest (including, without limitation, by pursuit of appeals), and shall not settle without the Lessee's consent, the validity, applicability or amount of such Taxes by, in such Indemnitee's sole discretion, (i) resisting payment thereof, (ii) not paying the same except under protest, if protest shall be necessary and proper, or (iii) if payment shall be made, using reasonable efforts to obtain a refund thereof or credit therefor in appropriate administrative and judicial proceedings; *provided, however*, that in no event shall such Indemnitee be required to contest the imposition of any Tax for which the Lessee is obligated pursuant to this Article VII unless (x) the Lessee shall have agreed to pay such Indemnitee all reasonable costs and expenses that such Indemnitee shall incur in connection with contesting such claim (including, without limitation, all costs, expenses, reasonable legal and accounting fees and disbursements), (y) the action to be taken will not result in any material danger of sale, forfeiture or loss of, or the creation of any Lien (except if the Lessee shall have adequately bonded such Lien or otherwise made provision to protect the interests of such Indemnitee in a manner reasonably satisfactory to such Indemnitee) on, the Undivided Interest, the Unit 2 Site Interest or the Easements or any interest therein, and (z) if such contest shall involve payment of the claim, the Lessee shall advance the amount thereof, plus (to the extent indemnified under Section 7.02) interest, penalties and additions to tax with respect thereto, to such Indemnitee on an interest-free basis and with no additional net after-tax cost to such Indemnitee (and such Indemnitee shall promptly pay the Lessee any net realized tax benefits due to any imputed interest deduction arising from such interest-free advance from the Lessee plus the tax benefit from making any such payment); *provided, further*, that with respect to any claim for taxes with respect to the Undivided Interest, the Unit 2 Site Interest or the Easements or any interest therein, such contest shall be conducted by the Lessee in the name of such Indemnitee if so permitted or requested by such Indemnitee.

(b) Notwithstanding the foregoing, in no event shall any Indemnitee be required or the Lessee be permitted to contest the imposition of any Tax for which the Lessee is obligated to indemnify pursuant to this Article VII unless: (i) no Event of Default has occurred and is continuing; (ii) the Lessee shall have acknowledged in writing its obligation to indemnify such Indemnitee for Taxes in the event the contest is unsuccessful; (iii) such Indemnitee shall have received an opinion of Simpson Thacher & Bartlett or of an independent tax counsel selected by the Lessee and reasonably satisfactory to such Indemnitee, at the Lessee's sole expense, to the effect that a Reasonable Basis exists for contesting such claim or, in the event of an appeal, it is more likely than not that such adverse determination would be reversed or substantially modified in a manner favorable to the taxpayer; (iv) either (x) the amount of (A) such claim, plus (B) the amount of all similar and logically related claims with respect to the transactions that have been or could be raised in an audit of such Indemnitee by the taxing authority in question for any other taxable period (including all future periods) of such Indemnitee with respect to which an assessment of a tax deficiency is not, as of the date of the Lessee's written statement referred to in clause (ii) above, barred by a statute of limitations, would result in an additional tax liability (exclusive of interest, penalties and additions to tax) of such Indemnitee in excess of $25,000, or (y) in its written statement delivered pursuant to clause (ii) above the Lessee shall have confirmed to such Indemnitee that the subject matter of such claim is of overriding importance to the Lessee and could have a material adverse impact on the interests of the Lessee (other than the Lessee's interest in Unit 2); and (v) if such contest shall be conducted in a manner requiring the payment of the claim, the Lessee shall have paid the amount required.

(c) Notwithstanding anything contained in Section 7.04(a), an Indemnitee will not be required to contest the imposition of any Taxes if such Indemnitee shall waive its right to indemnity under this Article VII with respect to such Taxes and shall pay to the Lessee any amount previously paid or advanced by the Lessee pursuant to this Article VII with respect to such Taxes or the contest of such Taxes (excluding the amounts described in Section 7.04(a)(x)).

(d) Notwithstanding anything contained in this Section 7.04 to the contrary, no Indemnitee shall be required to contest any claim if the subject matter thereof shall be of a continuing nature and shall have previously been decided pursuant to the contest provisions of this Section 7.04 unless there shall have been a change in law (including, without limitation, amendments to statutes or regulations, administrative rulings and court decisions) enacted, promulgated, decided or effective after such claim shall have been so previously decided, and such Indemnitee shall have received an opinion of independent tax counsel selected by the Lessee and approved by such Indemnitee, which approval shall not be unreasonably withheld, furnished at the Lessee's sole expense, to the effect that as a result of such change in the law it is more likely than not that the Indemnitee will prevail in the contest of such claim.

SECTION 7.05. **Refunds or Credits.** If any Indemnitee shall receive a refund of (or receive a credit against, or any other current reduction in, any Tax not indemnified by the Lessee pursuant to this Article VII) all or any part of any Taxes paid, reimbursed or advanced by the Lessee (or would have received such a refund, credit or reduction but for a counterclaim or other claim not indemnified by the Lessee hereunder (a "deemed refund, credit or reduction")), within 10 days of such receipt (or, in the case of a deemed refund, credit or reduction, within 10 days of the final determination of such deemed refund, credit or reduction), the Indemnitee shall pay to the Lessee an amount equal to the amount of such refund, credit or reduction or deemed refund, credit or reduction plus any net tax benefit (taking into account any Taxes incurred by such Indemnitee by reason of the receipt of such refund, credit or reduction or deemed refund, credit or reduction) realized by such Indemnitee as a result of any payment by such Indemnitee made pursuant to this sentence; *provided, however*, that such Indemnitee shall not be obligated to make any payment to the Lessee pursuant to this sentence while an Event of Default shall have occurred and be continuing. If, in addition to such refund, credit or reduction or deemed refund, credit or reduction, as the case may be, such Indemnitee shall receive (or would have received but for a counterclaim or other claim not indemnified by the Lessee hereunder) an amount representing interest on the amount of such refund, credit or reduction or deemed refund, credit or reduction, as the case may be, such Indemnitee shall pay to the Lessee within 10 days of such receipt or, in the case of a deemed refund, credit or reduction within 10 days of the final determination of such deemed refund, credit or reduction, that proportion of such interest that shall be fairly attributable to Taxes paid, reimbursed or advanced by the Lessee prior to the receipt of such refund, credit or reduction or deemed refund, credit or reduction.

SECTION 7.06. **Payments.** Any amount payable to an Indemnitee pursuant to Section 7.02 shall be paid within 30 days after receipt of a written demand therefor from such Indemnitee accompanied by a written statement describing in reasonable detail the amount so payable, but not before the date that the relevant Taxes are due. Any payments made pursuant to Sections 7.02 through 7.05 shall be made directly to the Indemnitee entitled thereto or the Lessee, as the case may be, in immediately available funds at such bank or to such account as specified by the payee in written directions to the payor, or, if no such direction shall have been given, by check of the payor payable to the order of the payee by certified mail, postage prepaid at its address as set forth in this Agreement. Any amount payable under Sections 7.02 through 7.05 that is not paid when due shall bear interest at the Penalty Rate.

SECTION 7.07. **Reports.** If any report, return or statement is required to be filed with respect to any Taxes that are subject to indemnification under this Article VII, the Lessee shall promptly notify the appropriate Indemnitee of such requirement and, if the Lessee is permitted by Applicable Law to do so and has been furnished at the Indemnitee's expense with such information, not within the control of the Lessee, as (i) is in such Indemnitee's control, (ii) is reasonably available to such Indemnitee, (iii) is necessary to file such report, return or statement and (iv) has been requested by the Lessee, shall timely file such report, return or statement with respect to such Taxes (unless such Indemnitee has notified the Lessee that such Indemnitee intends to file such report, return or statement); *provided, however*, that if the Lessee is not permitted by Applicable Law to file any such report, return or statement, the Lessee will promptly notify the appropriate Indemnitee that it is not so permitted. With respect to any report, return or statement that is required to be filed with respect to any Taxes that are subject to indemnification under this Article VII, the Lessee shall either show the ownership of the Undivided Interest in the Owner Trustee and send a copy of such report, return or statement to the Owner Trustee and the appropriate Indemnitee or, where not permitted so to show such ownership, shall promptly notify the Owner Participant of such requirement and prepare and deliver to the Owner Trustee and the appropriate Indemnitee a proposed form of such report, return or statement within a reasonable time prior to the time such report, return or statement is to be filed.

SECTION 7.08. **Verification.** At the Lessee's request, the amount of any indemnity payment by the Lessee pursuant to Section 7.02 or any payment by an Indemnitee to the Lessee pursuant to Section 7.05 shall be verified and certified by the independent public accounting firm that audits the financial statements of such Indemnitee. The costs of such verification shall be borne by the Lessee unless such verification shall result in an adjustment in the Lessee's favor of 5% or more in the net present value of the payment as computed by the Indemnitee, in which case such fee shall be paid by the Indemnitee.

SECTION 7.09. **Survival.** The provisions of this Article VII shall survive the expiration or termination of this Agreement, the Lease and the other Transaction Documents.

ARTICLE VIII

TRANSFERS OF OWNER PARTICIPANT'S INTERESTS

Except as approved by the Lessee in writing, the Owner Participant shall not directly or indirectly assign, convey or otherwise transfer (whether by consolidation, merger, sale of assets or otherwise) any of its right, title or interest in and to the Trust Estate, this Agreement, the Trust Agreement, the Tax Indemnification Agreement or any other Transaction Document or any proceeds therefrom; *provided, however*, that, after the Closing Date, subject to fulfillment of the conditions set forth below, the Owner Participant (and any Person to whom a transfer is duly made pursuant to this Article VIII) may transfer all, or any part representing not less than $75,000,000 of Lessor's Cost (or not less than $25,000,000 of Lessor's Cost if a Deemed Loss Event would be in existence at the time of such transfer but for the presence of the word "solely" in the definition of the term "Deemed Loss Event") of its right, title and interest in and to the Trust Estate, this Agreement, the Trust Agreement, the Tax Indemnification Agreement and each other Transaction Document to which the Owner Participant is a party or by which the Owner Participant is bound to one or more Transferees (as defined below). Each such transfer shall be subject to the fulfillment of the following conditions:

(a) the Person to whom such transfer is to be made (a "*Transferee*") is either (i) a bank or other financial institution that is organized under the laws of the United States of America, any state thereof or the District of Columbia and (unless a Deemed Loss Event would be in existence at the time of such transfer as aforesaid) has a combined capital, surplus and undivided profits of at least $75,000,000, or a corporation that is organized under the laws of the United States of America, any state thereof or the District of Columbia and (unless a Deemed Loss Event would be in existence at the time of such transfer as aforesaid) has a consolidated net worth of at least $75,000,000, exclusive of goodwill, all of the foregoing as determined in accordance with generally accepted accounting principles, or (ii) any wholly-owned subsidiary of any such bank, financial institution, corporation or of the Owner Participant, if such bank, financial institution, corporation or the Owner Participant furnishes to the Loan Participants, the Owner Trustee, the Indenture Trustee and the Lessee an agreement of such bank, financial institution, corporation or the Owner Participant guaranteeing the correctness of all representations and warranties of such subsidiary as the Owner Participant contained in or made pursuant to this Agreement and the other Transaction Documents and the performance and observance by such subsidiary of all covenants, agreements and conditions required to be performed or observed by such subsidiary as the Owner Participant in this Agreement and the other Transaction Documents, which agreement shall be deemed to satisfy the requirements of this clause (ii) if it is either in the form of Exhibit E or in a form approved by the Lessee, the Indenture Trustee and a Majority in Interest of Holders of Notes;

(b) the Owner Trustee, the Indenture Trustee and the Lessee shall have received at least 30 days' prior notice of the proposed transfer, which notice shall specify the name and address of the proposed transferee and the facts necessary to determine whether such proposed transferee qualifies as a Transferee under paragraph (a) above;

(c) the Transferee shall have all requisite power and authority to enter into and perform the obligations of the Owner Participant under this Agreement and the other Transaction Documents, and, upon giving effect to the proposed transfer, the Transferee will not be in breach of any covenant, agreement or condition required to be performed or observed by the Owner Participant in this Agreement and the other Transaction Documents;

(d) the Transferee shall have duly authorized, executed and delivered to the Loan Participants, the Indenture Trustee, the Owner Trustee and the Lessee an agreement in the form of Exhibit F or in a form approved by the Lessee, the Indenture Trustee and a Majority in Interest of Holders of Notes, whereby the Transferee confirms that (i) it has all requisite power and authority to enter into and perform the obligations of the Owner Participant under this Agreement and the other Transaction Documents, (ii) it shall be deemed a party to, and shall be bound by all the provisions of, this Agreement and each of the other Transaction Documents to which the Owner Participant is a party, (iii) it shall be obligated to perform and observe each executory covenant, agreement and condition required to be performed or observed by the Owner

Participant in this Agreement and the other Transaction Documents beginning on the date of the transfer and (iv) the representations and warranties of the Owner Participant contained in or made pursuant to this Agreement and the other Transaction Documents are true and correct as to it;

(e) such transfer shall not violate any provision of, or create a relationship that would be in violation of, any Applicable Law;

(f) such transfer does not and will not involve, either directly or indirectly, the assets of any plan that would cause a violation of any provision of ERISA or the imposition of an excise tax under the Code;

(g) neither the Transferee nor any of its Affiliates is then engaged in the business of generating or distributing electric energy; *provided, however*, that, for the purpose of this paragraph (g), a Transferee and its Affiliates shall not be deemed to be engaged in the business of generating or distributing electric energy solely by reason of (i) their ownership of securities of any entity engaged in such business so long as such entity is not an Affiliate of the Transferee or (ii) their ownership of securities of, or partnership or other proprietary interests in, any entity that is neither a public utility holding company or a subsidiary thereof under the Holding Company Act nor a public utility regulated by a state public utility regulatory commission;

(h) the transferring Owner Participant or the Transferee shall have delivered to the Loan Participants, the Indenture Trustee, the Owner Trustee and the Lessee a favorable opinion of independent counsel as to the due authorization, execution, delivery and enforceability of any agreement of guaranty referred to in paragraph (a) above and the agreement referred to in paragraph (d) above, and as to the matters referred to in paragraphs (c) and (e) above; and

(i) the Owner Participant shall concurrently transfer to the same Transferee an equal portion of its right, title and interest in and to the portion of Unit 2 under lease to I&M in which the Owner Participant has a beneficial interest.

From and after any transfer effected in accordance with this Article VIII, the Transferee shall be deemed the "Owner Participant" for all purposes of the Transaction Documents and shall be deemed to have made the Investment previously made by the Owner Participant, and, except as provided in the last sentence of this paragraph, each reference to the Owner Participant contained in the Transaction Documents shall be deemed a reference to the Transferee for all purposes. If as a result of any such transfer there shall be more than one Owner Participant, any requirement for the consent or approval of, or instructions from, the Owner Participant under this Agreement or any other Transaction Document shall be deemed to be satisfied if such consent or approval or instructions are given by Owner Participants having at least 51% of the aggregate interest in the Trust Estate. Notwithstanding the foregoing provisions of this Article VIII, after any transfer effected in accordance with this Article VIII the transferring Owner Participant shall not be released from any obligation arising or accruing prior to such transfer, but shall not be liable for any obligation arising or accruing after such transfer. Notwithstanding any transfer effected in accordance with this Article VIII, the transferring Owner Participant shall nevertheless be entitled to all benefits accrued and all rights vested prior to such transfer, including, without limitation, any right to indemnification under this Agreement or the Tax Indemnification Agreement.

The foregoing restrictions on transfers by the Owner Participant shall be of no force and effect after the Lease Termination Date.

ARTICLE IX
PAYMENT OF EXPENSES

SECTION 9.01. **Transaction Expenses.** Subject to the provisions of Section 9.03, the Owner Trustee hereby agrees that, with funds to be provided by the Owner Participant, the Owner Trustee shall pay when due, or reimburse any Person who has previously paid, an appropriate portion (taking into account the other undivided interests in Unit 2 being sold and leased back by the Lessee on the Closing Date) of the reasonable fees and out-of-pocket expenses, disbursements and costs (each of which shall be evidenced by appropriate bills or invoices approved in writing by the Lessee prior to payment thereof) incurred by the parties hereto in connection with the preparation, execution and delivery of the Transaction Documents and the consummation of the transactions provided for therein (*"Transaction Expenses"*), including, without limitation:

(a) the reasonable fees and disbursements of the Original Loan Participants' Counsel, the Original Loan Participant's Special Indiana Counsel, the Owner Participant's Special Counsel, the Owner Participant's Special Indiana Counsel, the Owner Trustee's Counsel, the Indenture Trustee's Counsel, Funding Corporation's Special Counsel, the Lessee's Special Counsel and the Lessee's Special Indiana Counsel for their services rendered in connection with the execution and delivery of this Agreement and the other Transaction Documents;

(b) the reasonable fees and disbursements of the Lessee's independent public accountants for their services rendered in connection with the transactions contemplated hereby;

(c) the initial (but not the ongoing) fees and expenses of the Owner Trustee and the Indenture Trustee, respectively;

(d) all stenographic, printing, reproduction, and other reasonable out-of-pocket expenses (other than investment banking or brokerage fees, except as provided in clause (h) below) incurred in connection with the execution and delivery of this Agreement and the other Transaction Documents and all other agreements, documents or instruments prepared in connection therewith;

(e) the fees and expenses of the Appraiser;

(f) all reasonable costs associated with the issuance of Refunding Notes and/or Bonds issued to refund the Initial Series Notes to the extent that the proceeds thereof are not sufficient to pay such costs, including, without limitation, the costs of preparing the Financing Documents, all filing fees relating to any registration statement, the reasonable fees and disbursements of the law firms referred to in clause (a) above and those of special counsel for the Collateral Trust Trustee and special counsel for the purchasers (or, in the event of a public offering of such Bonds, those of special counsel for the underwriters of such Bonds), the initial fees of the Collateral Trust Trustee and its expenses through the applicable Refunding Date, rating agency fees, the fees and commissions of the underwriters of such Bonds (if any) and the fees, expenses, and disbursements of the Loan Participants in connection therewith;

(g) commitment fees, if any, payable to the Original Loan Participants;

(h) the fees and expenses of Goldman Sachs (including the reasonable fees and disbursements of its counsel), as financial advisor to the Lessee in connection with the transactions contemplated by this Agreement;

(i) the reasonable out-of-pocket expenses of the Owner Participant ; and

(j) the reasonable out-of-pocket expenses of the Owner Participant's financial advisor (not to exceed $37,500 in the aggregate for all undivided interests being sold and leased back by the Lessee on the Closing Date).

Subject to the provisions of Section 9.03, the Owner Participant shall provide funds to the Owner Trustee for the timely payment of Transaction Expenses.

SECTION 9.02. Post-Closing Expenses. The Lessee shall pay, as Supplemental Rent, (a) the ongoing fees and out-of-pocket expenses (including reasonable legal fees and expenses) of or incurred by the Owner Trustee, the Indenture Trustee, Funding Corporation and the Collateral Trust Trustee, respectively, including those incurred in connection with the issue, sale and purchase of Notes and Bonds after the Closing Date, and (b) all fees and out-of-pocket expenses (including reasonable legal and other professional fees and expenses) incurred by the Loan Participants, the Owner Participant, the Owner Trustee, the Indenture Trustee, Funding Corporation and the Collateral Trust Trustee in connection with (i) any Default or Event of Default, (ii) the entering into or giving or withholding of any amendment, modification, supplement, waiver, termination, approval, consent or other action

with respect to any Transaction Document or Financing Document done at the request of the Lessee or (iii) any refunding referred to in Section 2.06 (except to the extent the same constitute Transaction Expenses).

SECTION 9.03. Lessee's Obligation. Notwithstanding Section 9.01, in the event the transactions contemplated by Section 2.05 of this Agreement shall not be consummated, the Lessee shall pay or cause to be paid, and shall indemnify and hold harmless the Original Loan Participants, the Owner Participant, the Indenture Trustee, the Owner Trustee and Funding Corporation in respect of, all Transaction Expenses unless, in the case of the Owner Participant, such failure to consummate shall result from the Owner Participant's default in making its Investment hereunder in which case the Owner Participant will pay the fees and expenses of the Owner Participant's Special Counsel, the Owner Participant's Special Indiana Counsel and the Owner Trustee's Counsel.

ARTICLE X

LIABILITY OF OWNER TRUSTEE AND OWNER PARTICIPANT

The Lessee, the Owner Participant, the Loan Participants, the Indenture Trustee and Funding Corporation each agrees that Wilmington Trust Company in its individual capacity shall have no personal liability whatsoever to the Lessee, the Owner Participant, the Loan Participants, the Indenture Trustee, Funding Corporation or any of their respective successors and assigns for any claim based on or in respect of this Agreement or any of the other Transaction Documents or arising in any way from the transactions contemplated hereby or thereby; *provided, however*, that Wilmington Trust Company shall be liable in its individual capacity (a) for its own willful misconduct or gross negligence, (b) for liabilities that may result from the incorrectness of any representation or warranty expressly made by it in its individual capacity in Section 5.04, in Section 8.02 of the Indenture or in Section 6.03 of the Trust Agreement or from the failure of Wilmington Trust Company to perform the covenants and agreements set forth in Section 6.04, or (c) for any Tax based on or measured by any fees, commission or compensation received by it for acting as trustee in connection with any of the transactions contemplated by the Transaction Documents. It is understood and agreed that, except as provided in the preceding proviso: (i) Wilmington Trust Company shall have no personal liability under any of the Transaction Documents as a result of acting pursuant to and consistent with one or another of the Transaction Documents; (ii) all obligations of Wilmington Trust Company to the Lessee, the Owner Participant, the Loan Participants, the Indenture Trustee and Funding Corporation are solely nonrecourse obligations; (iii) all such personal liability of Wilmington Trust Company is expressly waived and released as a condition of, and as consideration for, the execution and delivery of the Transaction Documents by Wilmington Trust Company; and (iv) this Agreement is executed and delivered by Wilmington Trust Company solely in the exercise of the powers expressly conferred upon it as the Owner Trustee under the Trust Agreement. It is further understood and agreed that the Owner Participant as such shall not be personally liable for, or for any loss in respect of, any action taken or omitted to be taken by, or any representation, warranty, undertaking or agreement of, the Owner Trustee under this Agreement, any other Transaction Document or the Operating Agreement. The Loan Participants as holders of the Notes agree that they will look solely to the income and proceeds of the Lease Indenture Estate to the extent available for distribution to them as provided in the Indenture and that none of the Owner Participant, Wilmington Trust Company (in its individual capacity and as Owner Trustee) and The Connecticut National Bank (in its individual capacity and as Indenture Trustee) shall be personally liable to such Loan Participants for any amounts payable under the Notes or the Indenture or for any liability under the Indenture except as provided in the Indenture (in the case of the Owner Trustee and the Indenture Trustee) or in the Participation Agreement (in the case of the Owner Participant). Notwithstanding the foregoing provisions of this Article X, nothing herein shall be deemed to prevent any party hereto (other than the Owner Participant) from having recourse to and seeking enforcement against the Trust Estate for performance and observance of covenants, agreements and conditions required to be performed or observed by Wilmington Trust Company (in its individual capacity and as the Owner Trustee) in this Agreement and the other Transaction Documents.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. Notices. All notices, demands, declarations, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof shall be in writing and shall be given in person or by means of telex, telecopy or other wire transmission, or mailed by registered or certified mail, or sent by courier, in each case addressed as provided in Schedule 1. Any such communication shall become effective upon the date of receipt. The Indenture Trustee shall furnish to each holder of a Note a complete copy of each such communication given, received, executed or delivered to or by it pursuant to or in connection with any Transaction Document.

SECTION 11.02. Counterparts. This Agreement may be executed in any number of counterparts and by each of the parties hereto in separate counterparts, all such counterparts together constituting but one and the same instrument.

SECTION 11.03. Amendments. The provisions of this Agreement may not be waived, modified, amended, supplemented or terminated in any manner whatsoever except by written instrument signed by the party against which enforcement of the waiver, modification, amendment, supplement or termination is sought.

SECTION 11.04. Survival. The representations, warranties, covenants and agreements of the parties contained in this Agreement shall survive the respective participations by the Participants in payment of the Purchase Price of the Undivided Interest pursuant to Article II and the delivery of the Undivided Interest to the Owner Trustee, and shall be and continue in effect notwithstanding any investigation made by any Participant and the fact that the Owner Trustee, the Indenture Trustee, the Owner Participant, any Loan Participant or Funding Corporation may waive compliance with any of the other provisions of this Agreement.

SECTION 11.05. Headings, etc. The Table of Contents and headings of the various Articles and Sections of this Agreement are for convenience of reference only and shall not modify, define, expand or limit any of the provisions hereof.

SECTION 11.06. Parties in Interest. The terms of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their permitted successors and assigns, and each Holder from time to time of any Note Outstanding.

SECTION 11.07. GOVERNING LAW. THIS AGREEMENT HAS BEEN DELIVERED IN, AND SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF, THE STATE OF NEW YORK.

SECTION 11.08. Severability. Any provision of this Agreement that may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 11.09. Method of Payment. All amounts required to be paid by any party to any other party hereunder or under any of the other Transaction Documents shall be paid in immediately available funds in such freely transferable coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 11.10. Reproduction of Documents. This Agreement and all related documents, including (a) the Transaction Documents, (b) amendments, consents, waivers and modifications that may subsequently be executed, (c) documents received by any Participant in connection with the consummation of the transactions contemplated hereby on the Closing Date (except the Initial Series Notes themselves), and (d) financial statements, certificates and other information previously or subsequently furnished to any Participant, may be reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic or other similar process, and any party hereto may destroy any original document so reproduced. The parties hereto agree and stipulate that any such reproduction shall, to the extent permitted by Applicable Law, be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence), and that any enlargement, facsimile or further reproduction of the reproduction shall likewise be admissible in evidence.

SECTION 11.11. **Bankruptcy of Owner Participant or Owner Trustee.** If (i) the Owner Participant or the Owner Trustee becomes a debtor subject to the reorganization provisions of the Bankruptcy Code, or any successor provision, (ii) pursuant to such reorganization provisions the Owner Participant or the Owner Trustee is required, by reason of the Owner Participant being held to have recourse liability directly or indirectly to the Holder of a Note, to make payment on account of any amount payable as principal or interest on such Note and (iii) such Holder actually receives any Excess Amount (as hereinafter defined) which reflects any payment by the Owner Participant on account of clause (ii) of this Section 11.11, then such Holder shall promptly refund to the Owner Participant such Excess Amount. "*Excess Amount*" shall mean the amount by which such payment exceeds the amount which would have been received on or prior to the date of such payment by such Holder if the Owner Participant or the Owner Trustee had not become subject to the recourse liability referred to in clause (ii) of this Section 11.11. Nothing contained in this Section 11.11 shall prevent such Holder from enforcing any personal recourse obligation (and retaining the proceeds thereof) of the Owner Participant provided for under Section 5.02, Section 6.02, Section 9.03 and Article VIII of this Agreement.

SECTION 11.12. **Confidential Documents.** The Owner Participant, each Loan Participant, the Owner Trustee and the Indenture Trustee agree that the Lessee or the Operator may require the execution and delivery of an appropriate confidentiality agreement prior to the release of or allowance of access to any documents, agreements or information relating to the Lessee, Unit 2, the Common Facilities, the Unit 2 Site or the Lessee's operation and maintenance of Unit 2 and the Common Facilities that are reasonably designated by the Lessee or the Operator as confidential or proprietary; *provided, however,* that nothing herein or in any such confidentiality agreement shall prevent or be construed to prevent the Owner Participant, a Loan Participant, the Owner Trustee or the Indenture Trustee from disclosing any such document, agreement or information (a) to any Affiliate of such Person or to any transferee of such Person (or prospective transferee of such Person) that agrees to be similarly bound or, at the option of the Lessee, to execute and deliver an appropriate confidentiality agreement, (b) upon the order of any Governmental Authority having jurisdiction and authority to issue such order, (c) upon the request or demand of, or in connection with any investigation or audit by, any Governmental Authority, if such request or demand shall have the force of law, or by any Governmental Authority regulating the business of banking, (d) that is in the public domain other than through any violation hereof or of any such confidentiality agreement or through any other action by such Person, (e) that has been obtained from any Person that is not a party to this Agreement or an Affiliate of any such party and who was not similarly bound so far as the Owner Participant, the Loan Participant, the Owner Trustee or the Indenture Trustee, as the case may be, was aware, (f) in connection with the exercise of any remedy hereunder or under any other Transaction Document, (g) as expressly contemplated by this Agreement or any other Transaction Document, (h) to any prospective purchaser or lessee of the Undivided Interest, provided that such purchaser or lessee shall have agreed in writing to be bound by the provisions of this Section 11.12, or (i) to the auditors or attorneys of such Person. In the case of disclosure under clause (b) or (c) of the preceding sentence of this Section 11.12, the Owner Participant, the Loan Participant, the Owner Trustee or the Indenture Trustee, as the case may be, shall notify the Lessee before making any such disclosure.

SECTION 11.13. **Liabilities of Participants.** No Participant shall have any obligation to any other Participant or to the Lessee, the Owner Trustee, the Indenture Trustee, the Collateral Trust Trustee or Funding Corporation with respect to the transactions contemplated by the Transaction Documents except those obligations of such Participant expressly set forth in the Transaction Documents or except as set forth in the instruments delivered in connection therewith, and no Participant shall be liable for performance by any other party hereto of such other party's obligations under the Transaction Documents except as otherwise so set forth.

SECTION 11.14. Waiver of Valuation and Appraisement Laws. To the extent that Indiana law may be held to apply to amounts now or hereafter owed under this Agreement, all such amounts shall be payable without relief from valuation and appraisement laws.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in New York, New York, by their respective officers thereunto duly authorized as of the day and year first above written.

AEP GENERATING COMPANY

By: /s/ G. P. Maloney
Name: G. P. Maloney
Title: Vice President

PHILIP MORRIS CREDIT CORPORATION

By: /s/ John J. Mulligan
Name: John J. Mulligan
Title: Director, Leasing

RGS FUNDING CORPORATION

By: /s/ M. A. Ferrucci
Name: M. A. Ferrucci
Title: Vice President

WILMINGTON TRUST COMPANY, not in its individual capacity (except as expressly provided herein) but solely as Owner Trustee under the Trust Agreement

By: /s/ James P. Lawler
Name: James P. Lawler
Title: Financial Services Officer

THE CONNECTICUT NATIONAL BANK, not in its individual capacity (except as expressly provided herein) but solely as Indenture Trustee under the Indenture

By: /s/ Alan B. Coffey
Name: Alan B. Coffey
Title: Corporate Trust Officer

SCHEDULE 1

ADDRESSES FOR NOTICES

Lessee

AEP Generating Company
c/o American Electric Power Service Corporation
1 Riverside Plaza
Columbus, Ohio 43215
Attention: Chief Financial Officer

Owner Participant

Philip Morris Credit Corporation
120 Park Avenue
New York, New York 10017
Attention: Director, Lease Financing

Funding Corporation

RGS Funding Corporation
c/o The Corporation Trust Company
Corporate Trust Center
1209 Orange Street
Wilmington, Delaware 19801
Attention: President and Chief Executive Officer

Owner Trustee

Wilmington Trust Company
Rodney Square North
Wilmington, Delaware 19890
Attention: Corporate Trust Administration

Indenture Trustee

The Connecticut National Bank
777 Main Street
Hartford, Connecticut 06115
Attention: Corporate Trust Administration

Original Loan Participants

See the Participation Agreement Supplement.

SCHEDULE 2

AEP GENERATING COMPANY

ROCKPORT GENERATING STATION
UNIT 2

NOTICE OF CLOSING

Pursuant to Section 3.01(a) of the Participation Agreement (AEGCO Trust 1) dated as of March 15, 1989, as supplemented by Participation Agreement (AEGCO Trust 1) Supplement No. 1 dated as of , 1989 (the "*Participation Agreement*"), among AEP Generating Company (the "*Lessee*"), Philip Morris Credit Corporation (the "*Owner Participant*"), RGS Funding Corporation, Wilmington Trust Company, in its individual capacity and as Owner Trustee, The Connecticut National Bank, in its individual capacity and as Indenture Trustee, and the Original Loan Participants, the Lessee hereby gives notice that the Closing is scheduled to take place beginning at 10:00 a.m., New York City time, on , 1989 (the "*Closing Date*"), at the offices of Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, New York 10017-3909.

In connection with the Closing, please be advised that:

(i) The Purchase Price of the Undivided Interest is $.

(ii) Of such Purchase Price, the amount of the Owner Participant's Investment is $; and the respective amounts of the Original Loan Participant's Loans are as set forth in Exhibit 1 hereto.

(iii) Proceeds of the Purchase Price shall be transferred in immediately available funds to the Owner Trustee's Account No. at The Bank of New York, New York, New York.

Capitalized terms used herein and not defined herein shall have the meanings set forth in the Participation Agreement.

IN WITNESS WHEREOF, AEP Generating Company has executed this Notice of Closing this day of , 1989.

AEP GENERATING COMPANY

By: ....
Name:
Title:

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EXHIBIT 1
TO NOTICE
OF CLOSING

Original Loan Participant	Principal Amount of Loan

SCHEDULE 2

PRICING ASSUMPTIONS

Purchase Price	$425,000,000
Closing Date	December 15, 1989
Basic Lease Term	33 years commencing on the Closing Date
Basic Rent Payments	66 level payments payable semi-annually in arrears, commencing on June 15, 1990
Owner Participant's Percentage	18.42686351757%
Investment Amount	$78,314,169.95
Note Rate	Years 1-15 (Series 1): 10.00% p.a. Years 16-32 (Series 2): 10.75% p.a. Blended: 10.6363% p.a.
Note Term (As of December 15, 1989)	Series 1: 15.0 Years Series 2: 32.0 Years
Note Principal Amount	Series 1: $ 75,641,518.20 Series 2: $271,044,311.85 Total: $346,685,830.05
Weighted Average Life to Maturity of Notes	Series 1: 9.51543 Years Series 2: 26.31115 Years Blended: 22.647 Years
Amortization of Notes (12 30-day months)	See Annex A
Depreciation Allocation	15 years ACRS for 92% of Purchase Price 15 years straight-line for 8% of Purchase Price
Transaction Expenses	½ of 1% of Purchase Price, payable on the Closing Date

ANNEX A
to Schedule 3
[PMCC]

AMORTIZATION OF NOTES
(Series 1)

Amounts Stated as a Percentage of Purchase Price

Payment Date Occurring In	Principal Due	Payment Date Occurring In	Principal Due
June 1990	0.2678855%	December 1997	0.5569147%
December 1990	0.2812798	June 1998	0.5847605
June 1991	0.2953438	December 1998	0.6139985
December 1991	0.3101110	June 1999	0.6446984
June 1992	0.3256165	December 1999	0.6769333
December 1992	0.3418973	June 2000	0.7107800
June 1993	0.3589922	December 2000	0.7463190
December 1993	0.3769418	June 2001	0.7836350
June 1994	0.3957889	December 2001	0.8228167
December 1994	0.4155783	June 2002	0.8639575
June 1995	0.4363573	December 2002	0.9071554
December 1995	0.4581751	June 2003	0.9525132
June 1996	0.4810839	December 2003	1.0001388
December 1996	0.5051381	June 2004	1.0501458
June 1997	0.5303950	December 2004	1.1026531

ANNEX A
to Schedule 3
[PMCC]

AMORTIZATION OF NOTES
(Series 2)

Amounts Stated as a Percentage of Purchase Price

Payment Date Occurring In	Principal Due	Payment Date Occurring In	Principal Due
June 1990	0.0000000%	June 2006	0.7522398%
December 1990	0.0000000	December 2006	0.8736164
June 1991	0.0000000	June 2007	0.8062618
December 1991	0.0000000	December 2007	0.9358212
June 1992	0.0000000	June 2008	0.8636050
December 1992	0.0000000	December 2008	1.0024488
June 1993	0.0000000	June 2009	0.9250278
December 1993	0.0000000	December 2009	1.0738177
June 1994	0.0000000	June 2010	0.9908216
December 1994	0.0000000	December 2010	1.1502653
June 1995	0.0000000	June 2011	1.0612975
December 1995	0.0000000	December 2011	1.2321531
June 1996	0.0000000	June 2012	1.1367885
December 1996	0.0000000	December 2012	1.[illegible]8681
June 1997	0.0000000	June 2013	1.2176516
December 1997	0.0000000	December 2013	1.4138252
June 1998	0.0000000	June 2014	1.3040788
December 1998	0.0000000	December 2014	1.7704033
June 1999	0.0000000	June 2015	2.2895328
December 1999	0.0000000	December 2015	2.4125952
June 2000	0.0000000	June 2016	2.5422722
December 2000	0.0000000	December 2016	2.6789193
June 2001	0.0000000	June 2017	2.8229112
December 2001	0.0000000	December 2017	2.9746427
June 2002	0.0000000	June 2018	3.1345297
December 2002	0.0000000	December 2018	3.3030107
June 2003	0.0000000	June 2019	3.4805475
December 2003	0.0000000	December 2019	3.6676269
June 2004	0.0000000	June 2020	3.8647619
December 2004	0.0000000	December 2020	4.0724928
June 2005	0.4123591	June 2021	4.2913893
December 2005	0.8134086	December 2021	1.1841409

SCHEDULE 4

RECORDATIONS AND FILINGS

Part I. Recordations in respect of the sale of, and the Owner Trustee's title to, the Undivided Interest and the Ground Leasehold.

A. Office of the Recorder, Spencer County, Indiana:

(i) Trust Agreement;

(ii) Bill of Sale;

(iii) Ground Lease;

(iv) Lease; and

(v) Indenture.

Part II. UCC-1 and UCC-2 Financing Statements and Other Filings.

A. Office of the Recorder, Spencer County, Indiana:

(i) A financing statement on form UCC-2 naming AEGCO as lessee, the Owner Trustee as lessor and the Indenture Trustee as assignee of the Owner Trustee in respect of the Undivided Interest under the Lease.

(ii) A financing statement on form UCC-2 naming the Owner Trustee as debtor and the Indenture Trustee as secured party in respect of the Lease Indenture Estate.

B. Indiana Secretary of State:

(i) A financing statement on form UCC-1 naming AEGCO as lessee, the Owner Trustee as lessor and the Indenture Trustee as assignee of the Owner Trustee in respect of the Undivided Interest under the Lease.

(ii) A financing statement on form UCC-1 naming the Owner Trustee as debtor and the Indenture Trustee as secured party in respect of the Lease Indenture Estate.

C. Delaware Secretary of State:

A financing statement on form UCC-1 naming the Owner Trustee as debtor and the Indenture Trustee as secured party in respect of the Lease Indenture Estate.

D. Office of the Recorder of Deeds, New Castle County, Delaware:

A financing statement on form UCC-1 naming the Owner Trustee as debtor and the Indenture Trustee as secured party in respect of the Lease Indenture Estate.

Appendix A to Participation Agreement [PMCC/AEGCO]

DEFINITIONS

The terms defined herein relate to the Participation Agreement (as defined below) and certain Transaction Documents executed, or to be executed, in connection with the transactions contemplated by the Participation Agreement. If, and to the extent that, the Participation Agreement shall be amended, modified or supplemented from time to time pursuant to the terms thereof, this Appendix and the Appendix to each Transaction Document that incorporates this Appendix shall be, or be deemed to have been, amended, modified or supplemented concurrently with the execution and delivery of each such amendment, modification or supplement of the Participation Agreement, in order to conform the definitions herein and therein to the new or amended definitions set forth in or required by each such amendment, modification or supplement of the Participation Agreement.

"*Additional Bonds*" shall mean Bonds in addition to the initial series of Bonds.

"*Additional Equity Investment*" shall have the meaning specified in Section 8(e) of the Lease.

"*Additional Insureds*" shall mean the Lessor and the Owner Participant and, where applicable, the Indemnitees.

"*Additional Notes*" shall have the meaning set forth in the recitations in the Indenture, which Additional Notes shall be issued, if at all, pursuant to Section 3.05 of the Indenture.

"*Adjoining Premises*" shall have the meaning set forth in the Ground Lease.

"*Adjusted Theoretical Return*" shall mean Initial Theoretical Return, increased or decreased to reflect changes in applicable Federal income tax rates not taken into account in an adjustment to Basic Rent made pursuant to Section 3(d) of the Lease; *provided, however,* that in determining the amount of any increase or decrease required to preserve the Owner Participant's Adjusted Theoretical Return, it is intended that the Owner Participant's net after-tax yield and net after-tax cash flow (preserving its originally expected aggregate book earnings over the five-year period next succeeding the date of determination) shall each be maintained (or, where one such component must be enhanced in order to preserve the other component, enhanced).

"*AEGCO*" shall mean AEP Generating Company, an Ohio corporation, and its successors and assigns.

"*AEP*" shall mean American Electric Power Company, Inc., a New York corporation, and its successors and assigns.

"*Affiliate*", with respect to any Person, shall mean any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"*After-Tax Basis*" shall mean (i) with respect to any payment to be received by any Indemnitee, the amount of such payment supplemented by a further payment or payments so that, after deducting from such payments the amount of all Taxes (net of any current credits or deductions or other Tax benefits arising therefrom) imposed by any Governmental Authority with respect to such payments (whether or not such Taxes are payable or such Tax benefits are received in the year of receipt or accrual), the sum of such payments shall be equal to the original payment to be received, and (ii) with respect to any payment to be made by any Indemnitee, the amount of such payment supplemented by a further payment or payments so that, after increasing such payment by the amount of any credits or other Tax benefits realized under the laws of any Governmental Authority (whether or not such credits or benefits are received in the year of payment) resulting from the making of such payment, the sum of such payments (net of such credits or benefits) shall be equal to the original payment to be made. In the case of the Owner Participant, for the purposes of the preceding sentence, it shall be assumed that Federal income taxes and state and local income taxes are payable by the Owner Participant at the highest marginal rates applicable to corporations in effect from time to time and, in the case of the Owner Participant's state and local income taxes, such taxes will be computed on the basis that all items of income, gain, loss and deduction are apportioned 85% to New York, 15% to Virginia and 0% to all other states.

"*Applicable Law*" shall mean all applicable laws, statutes, treaties, rules, codes, ordinances, regulations, permits, certificates, orders, interpretations, licenses and permits of any Governmental Authority and judgments, decrees, injunctions, writs, orders or like action of any court, arbitrator or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction (including those pertaining to health, safety or the environment).

"*Appraisal*" shall mean the written appraisal delivered by the Appraiser pursuant to Section 3.01(dd) of the Participation Agreement.

"*Appraisal Procedure*" shall mean a procedure whereby two independent appraisers, one appointed by the Lessor and one by the Lessee, shall agree upon the value, period, amount or determination then the subject of an appraisal. If either the Lessor or the Lessee shall determine that a value, period, amount or determination to be determined under the Lease or any other Transaction Document cannot timely be established by agreement, such party shall appoint its appraiser and give notice thereof to the other party, which shall appoint its appraiser within 30 days thereafter. If such other party does not appoint its appraiser within such thirty-day period, the determination of the first appraiser made within 60 days thereafter shall be conclusive and binding on the Lessor and the Lessee. If within 60 days after appointment of the second of the two appraisers, such appraisers are unable to agree upon the value, period, amount or determination in question, they jointly shall appoint a third appraiser within 10 days thereafter, or, if they do not do so, either the Lessor or the Lessee may request the American Arbitration Association, or any organization successor thereto, to appoint the third appraiser from a panel of arbitrators knowledgeable on the subject of coal-fired electric generating plants and the equipment used or operated in connection therewith. The decision of the third appraiser shall be given within 60 days after his appointment. If three appraisers shall be so appointed, the average of all three determinations shall be conclusive and binding on the Lessor and the Lessee unless the determination of one appraiser is disparate from the middle determination by more than twice the amount by which the third determination is disparate from the middle determination, in which case the determination of the most disparate appraiser shall be excluded and the average of the remaining two determinations shall be conclusive and binding on the Lessor and the Lessee. The obligation to pay the fees and expenses of appraisers incurred in connection with any Appraisal Procedure relating to any transaction contemplated by any provision of the Lease or any other Transaction Document shall be divided equally between the Lessor and the Lessee (except the obligation to pay such fees and expenses in connection with an Appraisal Procedure pursuant to Section 16 of the Lease, which shall be solely that of the Lessee, and except the obligation to pay such fees and expenses in connection with an Appraisal Procedure pursuant to subsection 2.3(a) of the Ground Lease, which shall be solely that of the Ground Lessee).

For purposes of the Ground Lease, the foregoing definition shall be modified by substituting "Ground Lessee" for "Lessor" and "Ground Lessor" for "Lessee"

"*Appraiser*" shall mean R.W. Beck and Associates.

"*Assigned Payments*" shall have the meaning specified in clause (?) of the first sentence of Section 2.01 of the Indenture.

"*Assumptions*" shall mean the Pricing Assumptions and the Tax Assumptions.

"*Authorized Officer*" shall mean, with respect to the Indenture Trustee, any officer in the Corporate Trust Administration Department of the Indenture Trustee who shall be duly authorized by appropriate corporate action to authenticate a Note or to execute any Transaction Document, and shall mean, with respect to the Owner Trustee, any officer of the Owner Trustee who shall be duly authorized by appropriate corporate action to execute any Transaction Document.

"Bankruptcy Code" shall mean the Bankruptcy Reform Act of 1978, as amended and as the same may be further amended, and any other Applicable Law with respect to bankruptcy, insolvency or reorganization that is successor thereto.

"Basic Lease Term" shall mean the period commencing on the Closing Date and ending on the date which is the 33rd anniversary of the Closing Date (or such shorter period as may result from earlier termination of the Lease as provided therein).

"Basic Rent" shall have the meaning set forth in Section 3(a) of the Lease.

"Basic Rent Payment Dates" shall mean and include the date which is six months and the date which is twelve months after the Closing Date and each anniversary of each such date during the Lease Term.

"Bill of Sale" shall mean the Bill of Sale, Warranty Deed, Instrument of Transfer and Severance Agreement (AEGCO Trust 1) dated the Closing Date, between the Lessee and the Owner Trustee, substantially in the form of Exhibit G to the Participation Agreement.

"Bonds" shall mean all bonds, notes and other evidences of indebtedness from time to time issued and outstanding under the Collateral Trust Indenture.

"Business Day" shall mean any day other than a Saturday or Sunday or other day on which banks in New York, New York, Columbus, Ohio, or the city in which the Indenture Trustee's Office is located are authorized or required to be closed.

"Capital Funds Agreement" shall mean the Capital Funds Agreement dated as of December 30, 1988, between AEP and AEGCO, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the Participation Agreement.

"Change in Tax Law" shall mean any amendment to the Code that shall be enacted into law and become effective (including any technical correction to any such effective amendment that subsequently shall be enacted into law) or any change in the Income Tax Regulations (including any proposed or temporary Regulations) or any other administrative interpretation of the Code that shall be adopted or promulgated, as the case may be, subsequent to the Contract Date and on or prior to the Closing Date, that causes the Owner Participant to experience tax consequences more or less favorable than those assumed in Section 2 of the Tax Indemnification Agreement.

"Chief Financial Officer" shall mean the chief financial officer of the Lessee.

"Closing" shall mean the proceedings that occur on the Closing Date, as contemplated by the Participation Agreement.

"Closing Date" shall mean the date, not later than December 31, 1989, set forth in the Notice of Closing.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, or any comparable successor Federal statute.

"Collateral Trust Indenture" shall mean a Collateral Trust Indenture among the Lessee, Funding Corporation and the Collateral Trust Trustee, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the other Transaction Documents.

"Collateral Trust Indenture Supplement" shall mean a supplement to the Collateral Trust Indenture.

"Collateral Trust Trustee" shall mean the bank or trust company acting as trustee under the Collateral Trust Indenture, and the successors or assigns of such trustee.

"Common Facilities" shall have the meaning set forth in the Ground Lease.

"Contract Date" shall mean the date on which the Participation Agreement is executed and delivered by the parties thereto.

"Deemed Loss Event" shall mean the following event (unless and until waived in writing by the Owner Participant): If, at any time from and including the Closing Date and before the Lease Termination Date, the Lessor or the Owner Participant, solely by reason of the acquisition or ownership of the Undivided Interest or any part thereof by the Lessor (or the beneficial interest therein by the Owner Participant) or the lease of the Undivided Interest to the Lessee or any of the other transactions contemplated by the Transaction Documents, shall be deemed by any Governmental Authority having jurisdiction to be, or shall become subject to regulation (other than Nonburdensome Regulation) as, an electric utility, a public utility or a holding company of an electric utility or public utility under any Applicable Law (other than the Holding Company Act so long as by virtue of Rule 7D the Lessor or the Owner Participant is not deemed to be a utility thereunder), or as a consequence of any Governmental Action, and the effect thereof on the Lessor or the Owner Participant or any Affiliate which controls the Lessor or the Owner Participant would be, in the sole judgment of the Owner Participant, acting on the advice of counsel, adverse; *provided, however*, that, if the Lessee is contesting diligently and in good faith any Governmental Action that would otherwise constitute a Deemed Loss Event, such Deemed Loss Event shall be deemed not to have occurred so long as (i) such contest does not involve any danger of the foreclosure, forfeiture or loss, or the creation of any Lien (other than a Permitted Lien) on, the Undivided Interest or any part thereof or interest therein or any substantial danger of the sale of the Undivided Interest or any part thereof or interest therein, (ii) the Lessee shall have furnished to the Owner Participant an opinion of independent counsel satisfactory to the Owner Participant to the effect that (a) there exists a reasonable basis for contesting such determination or (b) in the case of any action arising from or related to the Lessor or the Owner Participant under the Holding Company Act, it is more likely than not that the Lessee will contest such determination successfully, without the need for any appeal, (iii) such determination shall be effectively stayed or withdrawn during such contest (and shall not be subject to retroactive application at the conclusion of such contest) in a manner satisfactory to the Owner Participant, and the Owner Participant shall have determined in its sole judgment that such contest and the Lessor's continued ownership of the Undivided Interest during the pendency of such contest will not adversely affect its business or the business of any of its Affiliates, and (iv) the Lessee shall have indemnified the Lessor and the Owner Participant in a manner satisfactory to the Owner Participant for any liability or loss that they may incur as a result of such determination and contest.

"Default" shall mean an event or condition that, with the giving of notice or lapse of time, or both, would constitute an Event of Default.

"Directive" shall mean an instrument in writing executed in accordance with the terms and provisions of the Indenture by the Holders, or their duly authorized agents or attorneys-in-fact, representing a Majority in Interest of Holders of Notes, directing the Indenture Trustee to take or refrain from taking the action specified in such instrument or otherwise advising the Indenture Trustee; *provided, however*, that each Holder of Notes then Outstanding, or its duly authorized agent or attorney-in-fact, shall be entitled to direct the Indenture Trustee only with respect to the aggregate unpaid principal amount of Notes (or portion thereof) issued and Outstanding that are registered in the name of such Holder and that are certified by such Holder or its duly authorized agent or attorney-in-fact to be (i) held by it for its own account and not pledged as collateral for any of its obligations or (ii) pledged as collateral for one or more of its obligations, or obligations with respect to which it is acting as trustee under a related indenture, but in respect of which it has received a directive, satisfactory in form and substance to the Indenture Trustee, given by the holder or holders of a proportionate interest in the obligations secured by such Notes in accordance with the instrument

governing such obligations. More than one directive can be given by a registered Holder of Notes or its duly authorized agent or attorney-in-fact pursuant to clause (ii) of the preceding sentence, and such directives may be contradictory or inconsistent, so long as each directive to take or refrain from taking the action specified therein or otherwise advising the Indenture Trustee meets the requirements of said clause (ii).

"*Discount Rate*" shall mean 10.63%.

"*DOM*" shall have the meaning set forth in Section 5.01(h) of the Participation Agreement.

"*Easements*" shall have the meaning set forth in the Ground Lease.

"*Entitlement*" shall have the meaning set forth in the Unit 2 Operating Agreement.

"*EOM*" shall have the meaning set forth in Section 5.01(h) of the Participation Agreement.

"*Equity Portion of Rent*" shall mean: (i) in the case of any payment of Basic Rent, the amount of Basic Rent payable under the Lease reduced by the principal and interest then due and payable on the Outstanding Notes; (ii) in the case of any payment of Stipulated Loss Value or Termination Value, the amount thereof reduced by the principal amount of, and accrued interest on, the Outstanding Notes; or (iii) in the case of any other payment of Supplemental Rent, the amount thereof payable to the Owner Participant or the Owner Trustee.

"*ERISA*" shall mean the Employee Retirement Income Security Act of 1974, as amended and as the same may be further amended, or any comparable successor Federal statute.

"*Event of Default*" shall have the meaning set forth in Section 15 of the Lease.

"*Event of Loss*" shall mean any of the following events: (i) a Final Shutdown; (ii) a Requisition of Title; or (iii) a Requisition of Use that would significantly interfere with the use of Unit 2 for a Period that will exceed five years or end after the expiration of the Lease Term (including any Renewal Term in respect of which the Lessee then has exercised an option pursuant to Section 12 of the Lease).

"*Excepted Payments*" shall mean: (i) all indemnity payments (including, without limitation, payments under the Tax Indemnification Agreement whether made by adjustment to Basic Rent or otherwise) to which the Owner Trustee, the Owner Participant or any of their respective Affiliates (or the respective successors, assigns, agents, officers, directors or employees of the Owner Trustee or the Owner Participant), is entitled; (ii) any amounts payable under any Transaction Document to reimburse the Owner Trustee, the Owner Participant or any of their respective Affiliates (including the reasonable expenses of the Owner Trustee and the Owner Participant incurred in connection with any such payment), for performing or complying with any of the obligations of the Lessee under and as permitted by any Transaction Document; (iii) any amount payable to the Owner Participant by any Transferee as the purchase price of the Owner Participant's interest in the Trust Estate; (iv) any insurance proceeds or other payments received from any Governmental Authority, insurer or other Person (except the Lessee) with respect to an Event of Loss in excess of amounts then due and owing to reimburse the Indenture Trustee for any Trustee's Expenses and to pay the reasonable remuneration of the Indenture Trustee plus amounts then due and owing in respect of the principal of, and premium, if any, and interest on, all Notes Outstanding; (v) any insurance proceeds (or payments with respect to risks self-insured) under liability policies; (vi) any insurance proceeds under policies maintained by the Owner Trustee or the Owner Participant and not required to be maintained by the Lessee under the Lease; and (vii) any payments in respect of interest to the extent attributable to payments referred to in clauses (i) through (vi) above.

"*Excepted Rights*" shall mean (i) all rights with respect to Excepted Payments of the Person entitled thereto and (ii) all rights and privileges expressly reserved to the Owner Trustee or the Owner Participant exclusively or jointly with the Indenture Trustee pursuant to the Indenture for the periods specified in the Indenture.

"*Excess Amount*" shall have the meaning set forth in Section 11.11 of the Participation Agreement.

"*Existing Mortgage*" shall mean the Mortgage and Deed of Trust, dated as of June 1, 1939, between Indiana Michigan Power Company (formerly known as Indiana & Michigan Electric Company) and Irving Trust Company, as trustee, as supplemented.

"*Expenses*" shall mean liabilities, obligations, losses (excluding loss of anticipated profits), damages, claims, actions, suits, judgments, out-of-pocket costs, expenses and disbursements (including legal fees and expenses) of any kind and nature whatsoever.

"*Fair Market Renewal Term*" shall have the meaning set forth in Section 12(b) of the Lease.

"*Fair Market Rental Value*" shall mean, with respect to the Undivided Interest, the value, which shall not in any event be less than zero, that would be obtained in an arm's-length transaction for cash between an informed and willing lessee and an informed and willing lessor, neither of whom is under any compulsion to lease, for the use of the Undivided Interest on the Unit 2 Site for a given period, taking into account the rights and obligations of the Lessor as ground lessee under the Ground Lease and the rights of the Lessor as buyer under the Bill of Sale. Except pursuant to Section 16 of the Lease, Fair Market Rental Value of the Undivided Interest shall be determined on the assumption that: (i) Unit 2 is in the condition and state of repair required under Section 8(a) of the Lease; (ii) the Lessee is in compliance with the requirements of the Transaction Documents; (iii) such lessee will have the same rights and obligations as a "Participant" under the Unit 2 Operating Agreement; and (iv) during such lease period, Basic Rent will be payable in equal semiannual installments in arrears. With respect to any other property, including, without limitation, an undivided interest in any Severable Modification, "*Fair Market Rental Value*" shall mean the value, which shall not in any event be less than zero, that would be obtained in an arm's-length transaction for cash between an informed and willing lessee and an informed and willing lessor, neither of whom is under any compulsion to lease, for the use of such property.

"*Fair Market Sales Value*" shall mean, with respect to the Undivided Interest, the value, which shall not in any event be less than zero, that would be obtained in an arm's-length transaction for cash between an informed and willing purchaser and an informed and willing seller, neither of whom is under any compulsion to purchase or sell, respectively, for the ownership of the Undivided Interest on the Unit 2 Site, taking into account the rights and obligations of the Lessor as ground lessee under the Ground Lease and the rights of the Lessor as buyer under the Bill of Sale. Except pursuant to Section 16 of the Lease, Fair Market Sales Value of the Undivided Interest shall be determined on the assumption that: (i) Unit 2 is in the condition and state of repair required under Section 8 of the Lease; (ii) the Lessee is in compliance with the requirements of the Transaction Documents; and (iii) an owner of the Undivided Interest will have the same rights and obligations as a "Participant" under the Unit 2 Operating Agreement. With respect to any other property, including, without limitation, an undivided interest in any Severable Modification, "*Fair Market Sales Value*" shall mean the value, which shall not in any event be less than zero, that would be obtained in an arm's-length transaction for cash between an informed and willing purchaser and an informed and willing seller, neither of whom is under any compulsion to purchase or sell, respectively, for the ownership of such property.

"*Federal Power Act*" shall mean the Federal Power Act, as amended from time to time, or any comparable successor Federal statute.

"*FERC*" shall mean the Federal Energy Regulatory Commission of the United States of America or any successor agency.

"*Final Determination*", with respect to a Loss, shall mean (i) a decision, judgment, decree or other order by any court of competent jurisdiction, which decision, judgment, decree or other order has become final (i.e., when all allowable appeals have been exhausted by all parties to the action) or, in any case where judicial review shall at the time be unavailable because the proposed adjustment involves a decrease in a net operating loss carryforward or a business credit carryforward, a decision, judgment, decree or other order of an administrative official or agency of competent jurisdiction, which decision, judgment, decree or other order has become final (i.e., when all administrative appeals have been exhausted by all parties thereto), (ii) a closing agreement entered into under Section 7121 of the

Code or any other settlement agreement entered into in connection with any administrative or judicial proceeding (including any settlement of a proposed adjustment entered into by the Owner Participant in accordance with Section 7(a) of the Tax Indemnification Agreement) or (iii) the expiration of the time for instituting a claim for refund, or if such a claim was filed, the expiration of the time for instituting suit with respect thereto.

"Final Shutdown" shall mean the occurrence of any of the following events: (i) the destruction of Unit 2; (ii) damage to Unit 2 and the failure of the Lessee to complete the repair, restoration or reconstruction of Unit 2 by the date that is five years after such damage, or, if earlier, by the expiration of the Lease Term (including any Renewal Term in respect of which the Lessee then has exercised an option pursuant to Section 12 of the Lease); or (iii) the cessation of operation of Unit 2 as a result of damage to Unit 2 for a Period that will exceed five years or end after the expiration of the Lease Term (including any Renewal Term in respect of which the Lessee then has exercised an option pursuant to Section 12 of the Lease).

"Financing Documents" shall mean the Collateral Trust Indenture and the Underwriting Agreement.

"Fixed Rate Renewal Basic Rent" shall mean, for each six-month period during the Fixed Rate Renewal Term, if any, an amount of rent equal to 100% of the average of the installments of Basic Rent paid by the Lessee during the Basic Lease Term.

"Fixed Rate Renewal Term" shall have the meaning set forth in Section 12(a) of the Lease.

"Form U-7D" shall mean the certificate to be filed pursuant to Rule 7(d) of the Holding Company Act.

"Funding Corporation" shall mean RGS Funding Corporation, a Delaware corporation, and its successors and assigns.

"Funding Corporation's Special Counsel" shall mean such counsel as shall be selected by Funding Corporation.

"Goldman Sachs" shall mean Goldman, Sachs & Co.

"Governmental Action" shall mean all permits, authorizations, registrations, consents, approvals, waivers, exceptions, variances, orders, judgments and decrees, licenses, exemptions, publications, filings, notices to and declarations of or with any Governmental Authority (other than routine reporting requirements the failure to comply with which will not affect the validity or enforceability of any of the Transaction Documents or have a material adverse effect on the transactions contemplated by any Transaction Document or any Financing Document or any other action in respect of any Governmental Authority) and shall include, without limitation, all sitings, environmental and operating permits and licenses that are required for the use and operation of Unit 2 and the Common Facilities.

"Governmental Authority" shall mean any Federal, state, county, municipal, foreign, international, regional or other governmental authority, agency, board, body, instrumentality or court.

"Granting Clause Documents" shall have the meaning specified in clause (2) of the first sentence of Section 2.01 of the Indenture.

"Ground Lease" shall mean the Ground Lease and Easement Agreement (AEGCO Trust 1) dated as of December 1, 1989, between the Ground Lessor and the Ground Lessee and consented to by I&M, substantially in the form of Exhibit D to the Participation Agreement, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof.

"Ground Leasehold" shall have the meaning set forth in the Ground Lease.

"Ground Lease Property" shall have the meaning set forth in the Ground Lease.

"*Ground Lease Term*" shall have the meaning set forth in the Ground Lease.

"*Ground Lessee*" shall mean the Owner Trustee, as lessee under the Ground Lease, and, to the extent permitted under the Trust Agreement and the other Transaction Documents, its successors and assigns as lessee under the Ground Lease.

"*Ground Lessor*" shall mean AEGCO, as lessor under the Ground Lease, and its successors and assigns.

"*Holders*" shall mean the registered owners of the Notes Outstanding.

"*Holding Company Act*" shall mean the Public Utility Holding Company Act of 1935, as amended.

"*I&M*" shall mean Indiana Michigan Power Company, an Indiana corporation, and its successors and assigns.

"*Indemnitees*" shall mean the Owner Participant, Wilmington Trust Company (in its individual capacity and as Owner Trustee under the Trust Agreement), Funding Corporation, the stockholders of Funding Corporation, The Connecticut National Bank (in its individual capacity and as Indenture Trustee under the Indenture), each Holder of a Note from time to time Outstanding, the Collateral Trust Trustee in its individual capacity and as Trustee under the Collateral Trust Indenture, the Trust, the Trust Estate, the Lease Indenture Estate, the indenture estate under the Collateral Trust Indenture, any Affiliate of any of the foregoing and the respective successors, assigns, agents, officers, directors or employees of the foregoing, excluding, however, any "Participant" under the Unit 2 Operating Agreement other than the Owner Trustee or the Owner Participant, to the extent either or both of them should become such a "Participant".

"*Indenture*" shall mean the Trust Indenture, Mortgage and Security Agreement (AEGCO Trust 1) dated as of December 1, 1989, between the Owner Trustee and the Indenture Trustee, substantially in the form of Exhibit C to the Participation Agreement, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof.

"*Indenture Default*" shall mean an event which, after giving of notice or lapse of time, or both, would become an Indenture Event of Default.

"*Indenture Event of Default*" shall mean any of the events specified in Section 6.02 of the Indenture.

"*Indenture Supplement*" shall mean a supplement to the Indenture.

"*Indenture Trustee*" shall mean The Connecticut National Bank, not in its individual capacity except as otherwise expressly provided in the Participation Agreement, but solely as Indenture Trustee under the Indenture, and each successor trustee and co-trustee thereunder.

"*Indenture Trustee's Counsel*" shall mean Shipman & Goodwin, or such other counsel as shall be selected by the Indenture Trustee.

"*Indenture Trustee's Liens*" shall mean Liens against the Lease Indenture Estate that result from acts of, or any failure to act by, or as a result of claims against, The Connecticut National Bank, unrelated to the transactions contemplated by the Transaction Documents.

"*Indenture Trustee's Office*" shall mean the office of the Indenture Trustee located at 777 Main Street, Hartford, Connecticut 06115, or such other office as may be designated by the Indenture Trustee to the Owner Trustee, the Lessee and each Holder of a Note Outstanding under the Indenture.

"*Independent Tax Counsel*" shall mean independent tax counsel selected by the Owner Participant and reasonably acceptable to the Lessee.

"*Initial Series Notes*" shall mean the nonrecourse promissory notes to be issued pursuant to Article III of the Indenture by the Owner Trustee and authenticated by the Indenture Trustee on the Closing Date to finance a portion of the Purchase Price of the Undivided Interest.

"Initial Theoretical Return" shall mean the Owner Participant's expected net after-tax yield and net after-tax cash flow (preserving its originally expected aggregate book earnings over the five-year period next succeeding the date of determination) on its Investment resulting from the transactions described in and contemplated by the Transaction Documents, based on an amount of Basic Rent during the Basic Lease Term equal to the percentages of Lessor's Cost originally set forth on Schedule 1 to the Lease and based on the Pricing Assumptions and of the assumptions set forth in Section 2 of the Tax Indemnification Agreement; *provided, however,* that in determining the amount of any increase or decrease required to preserve the Owner Participant's Initial Theoretical Return, it is intended that the Owner Participant's net after-tax yield and net after-tax cash flow (preserving its originally expected aggregate book earnings over the five-year period next succeeding the date of determination) shall each be maintained (or, where one such component must be enhanced in order to preserve the other component, enhanced). Initial Theoretical Return shall not mean or include the Owner Participant's return on equity or return on assets.

"Investment" shall have the meaning set forth in Section 2.01 of the Participation Agreement.

"Investment Amount" shall have the meaning set forth in Section 2.01 of the Participation Agreement.

"Investment Company Act" shall mean the Investment Company Act of 1940, as amended.

"Investment Grade Quality", when used with respect to any Notes, shall mean (i) if such Notes are rated by Moody's or Standard & Poor's, the rating is at least "Baa" (or such other rating which at the time is the equivalent thereof) by Moody's or "BBB" (or such other rating which at the time is the equivalent thereof) by Standard & Poor's, or (ii) if such Notes are not rated by Moody's or Standard & Poor's, they are of a credit quality equivalent to the ratings specified in clause (i) above.

"IRS" shall mean the Internal Revenue Service of the United States Department of the Treasury or any successor agency.

"Irving Trust Company" shall mean Irving Trust Company, a New York banking corporation, and its successors and assigns.

"IURC" shall mean the Indiana Utility Regulatory Commission or any successor agency.

"KEPCO" shall mean Kentucky Power Company, a Kentucky corporation, and its successors and assigns.

"Lease" shall mean the Lease Agreement (AEGCO Trust 1) dated as of December 1, 1989, between the Lessor and the Lessee, substantially in the form of Exhibit A to the Participation Agreement, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the Indenture.

"Lease Indenture Estate" shall have the meaning set forth in Section 2.01 of the Indenture.

"Lease Term" shall mean the Basic Lease Term and, if the lease of the Undivided Interest is renewed pursuant to Section 12 of the Lease, each Renewal Term.

"Lease Termination Date" shall mean the last day of the Lease Term (whether occurring by reason of a termination or expiration of the Lease Term).

"Lessee" shall mean AEGCO, as lessee under the Lease, and its successors and assigns as lessee under the Lease.

"Lessee's Counsel" shall mean the general counsel or an associate general counsel of American Electric Power Service Corporation.

"Lessee's Special Counsel" shall mean Simpson Thacher & Bartlett, or such other counsel as shall be selected by the Lessee.

"*Lessee's Special Indiana Counsel*" shall mean Baker & Daniels and Miller, Carson & Boxberger, or such other counsel as shall be selected by the Lessee.

"*Lessor*" shall mean the Owner Trustee, as lessor under the Lease, and, to the extent permitted under the Trust Agreement and the other Transaction Documents, its successors and assigns as lessor under the Lease.

"*Lessor's Cost*" shall mean the Purchase Price plus the sum of (i) all Supplemental Financing Amounts and (ii) all Additional Equity Investment amounts.

"*Lessor's Liens*" or "*Owner Trustee's Liens*" shall mean Liens against the Trust Estate or the Lease Indenture Estate that result from acts of, or any failure to act by, or as a result of claims against, Wilmington Trust Company, unrelated to the ownership of the Undivided Interest, its status as Lessor under the Lease, its interest in the Ground Lease Property, the administration of the Trust Estate or the transactions contemplated by the Transaction Documents.

"*Lien*" shall mean any mortgage, pledge, security interest, encumbrance, lien, easement, servitude or charge of any kind, including, without limitation, any conditional sale or other title retention agreement, any lease in the nature thereof or the filing of, or agreement to execute as "debtor", any financing statement under the Uniform Commercial Code of any jurisdiction.

"*Loan*" shall have the meaning set forth in Section 2.03 of the Participation Agreement.

"*Loan Participants*" shall mean the Original Loan Participants, so long as the Initial Series Notes are Outstanding, and each other Holder of a Note from time to time.

"*Loss*" shall have the meaning set forth in Section 5(a) of the Tax Indemnification Agreement.

"*Majority in Interest of Holders of Notes*" shall mean Holders of a majority in principal amount of all Notes Outstanding under the Indenture at the time of any such determination.

"*Modification*" shall mean (a) any addition, alteration, improvement or modification to Unit 2, other than original, substitute or replacement parts incorporated into Unit 2, and (b) the addition, betterment or enlargement of any property constituting part of Unit 2 or the replacement of any such property with other property, irrespective of whether (i) such replacement property constitutes an enlargement or betterment of the property that it replaces, (ii) the cost of such addition, betterment, enlargement or replacement is or may be capitalized, or charged or not charged to maintenance or repairs, in accordance with the Uniform System of Accounts or (iii) such addition, betterment or enlargement is or is not included or reflected in the plans and specifications for Unit 2, as built; *provided, however*, that, where the context so requires, reference to a Modification shall mean the Lessor's Undivided Interest Percentage in such Modification.

"*Moody's*" shall mean Moody's Investors Service, Inc., and any successor that issues nationally accepted securities ratings.

"*Nonburdensome Regulation*" shall mean (i) ministerial regulatory requirements that do not impose limitations or regulatory requirements on the business or activities of the Owner Participant (or any Affiliate thereof) and that are deemed, in the reasonable discretion of the Owner Participant, not to be burdensome, (ii) assuming redelivery of the Undivided Interest in accordance with Section 5 of the Lease, regulation resulting from any possession of the Undivided Interest (or right thereto) on or after the Lease Termination Date or (iii) regulation of the Owner Trustee that would be terminated by the appointment of a successor Owner Trustee or a co-Owner Trustee pursuant to the terms of the Trust Agreement.

"*Nonseverable Modification*" shall mean any Modification that is not a Severable Modification.

"*Noteholder*" shall mean any Holder from time to time of a Note Outstanding under the Indenture.

"*Notes*" shall mean the Initial Series Notes and any Additional Notes.

"*Notice of Closing*" shall mean a notice from the Lessee, substantially in the form of Schedule 2 to the Participation Agreement, setting forth, among other things, the Closing Date, the Purchase Price of the Undivided Interest, payment instructions with respect to the disposition of the proceeds of the Purchase Price, and the respective amounts of the Owner Participant's Investment and of each Original Loan Participant's Loan to be made on the Closing Date.

"*Obsolescence Redemption Date*" shall mean (i) if any Bonds are outstanding on the related Termination Date, the date that is 40 days after such Termination Date, or if such date is not a Business Day, the next Business Day thereafter, or (ii) if no Bonds are outstanding, such Termination Date.

"*Officers' Certificate*" shall mean (i) in the case of Wilmington Trust Company and The Connecticut National Bank, a certificate signed by any Authorized Officer of such Person and (ii) in the case of any other Person, a certificate signed by the President or any Vice President and by the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary of such Person.

"*Operating Agreement*" shall mean (i) until the Operation Commencement Date, the Rockport Plant Operating Agreement, and (ii) from and after the Operation Commencement Date, the Unit 2 Operating Agreement.

"*Operation Commencement Date*" shall have the meaning set forth in the Unit 2 Operating Agreement.

"*Operator*" shall mean I&M in its capacity as the operator under the Operating Agreement, and any successor and any assign as operator under the Operating Agreement.

"*Original Loan Participants*" shall mean the banks or other financial institutions which become parties to the Participation Agreement pursuant to Section 2.02 thereof by entering into the Participation Agreement Supplement.

"*Original Loan Participant's Commitment*" shall have the meaning set forth in Section 2.03 of the Participation Agreement.

"*Original Loan Participant's Percentage*", with respect to any Original Loan Participant, shall mean the percentage set forth opposite such Original Loan Participant's name in the Participation Agreement Supplement.

"*Original Loan Participants' Special Counsel*" shall mean such counsel, acceptable to the Lessee, as shall be selected by the Original Loan Participants.

"*Original Loan Participants' Special Indiana Counsel*" shall mean such Indiana counsel, acceptable to the Lessee, as shall be selected by the Original Loan Participants.

"*Original of the Lease*" shall mean the fully executed counterpart of the Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" pursuant to Section 21(e) of the Lease and containing the receipt of the Indenture Trustee.

"*Outstanding*", when used with respect to Notes, shall mean, as of the date of determination, all such Notes theretofore issued, authenticated and delivered under the Indenture, except (a) Notes theretofore cancelled by the Indenture Trustee or delivered to the Indenture Trustee for cancellation, (b) Notes or portions thereof for the payment of which the Indenture Trustee holds (and has notified the Holders thereof that it holds) in trust for that purpose an amount sufficient to make full payment thereof when due and (c) Notes in exchange for, or in lieu of, which other Notes have been issued, authenticated and delivered pursuant to the Indenture; *provided, however*, that any Note owned by the Lessee, the Owner Participant or the Owner Trustee or any Affiliate of any thereof shall be disregarded and deemed not to be Outstanding for the purpose of any Directive.

"Overdue Interest Rate" shall mean the weighted average rate per annum of interest payable with respect to overdue payments of principal on the Notes Outstanding, computed as set forth in such Notes.

"Owner Participant" shall mean Philip Morris Credit Corporation, a Delaware corporation, and, to the extent permitted by the Trust Agreement and the Participation Agreement, each successor or assign of such Person.

"Owner Participant's Liens" shall mean Liens against the Trust Estate or the Lease Indenture Estate that result from acts of, or any failure to act by, or as a result of claims against, the Owner Participant, unrelated to the transactions contemplated by the Transaction Documents.

"Owner Participant's Percentage" shall mean the percentage set forth in the Pricing Assumptions opposite the term "Owner Participant's Percentage".

"Owner Participant's Special Counsel" shall mean Hunton & Williams, or such other counsel as shall be selected by the Owner Participant.

"Owner Participant's Special Indiana Counsel" shall mean Rose McKinney & Evans, or such other counsel as shall be selected by the Owner Participant

"Owners' Agreement" shall mean the Owners' Agreement dated as of March 31, 1982, among I&M, AEGCO and KEPCO, as amended by the First Amendment Agreement, dated as of November 22, 1983, and the Second Amendment Agreement, dated as of July 23, 1984, and as the same may be further amended, modified or supplemented from time to time in accordance with the provisions thereof.

"Owner Trustee" shall mean Wilmington Trust Company, not in its individual capacity except as otherwise expressly provided in the Participation Agreement and any other Transaction Document, but solely as Owner Trustee under the Trust Agreement, and each successor as trustee and each separate trustee and co-trustee thereunder.

"Owner Trustee's Counsel" shall mean Richards, Layton & Finger, or such other counsel as shall be selected by the Owner Trustee.

"Participants" shall mean the Owner Participant and the Original Loan Participants.

"Participation Agreement" shall mean the Participation Agreement (AEGCO Trust 1) dated as of March 15, 1989, among the Lessee, the Owner Participant, Funding Corporation, the Owner Trustee, the Indenture Trustee and the Original Loan Participants, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof.

"Participation Agreement Supplement" shall mean a supplement to the Participation Agreement, in form and substance satisfactory to the Lessee and the Owner Participant, to be entered into prior to the Closing Date among the Lessee, the Owner Participant and the banks or other financial institutions becoming parties to the Participation Agreement pursuant to Section 2.02 thereof, pursuant to which each such bank or other financial institution agrees to become a party to the Participation Agreement as an Original Loan Participant and to be bound by the terms and provisions of the Participation Agreement and the other Transaction Documents applicable to an Original Loan Participant, confirms that the representations or warranties set forth in Section 5.03 of the Participation Agreement are true and correct as to it, and commits to make a Loan to the Owner Trustee pursuant to Section 2.03 of the Participation Agreement in an amount equal to such Original Loan Participant's Percentage of the Purchase Price.

"Parts" shall mean appliances, parts, instruments, appurtenances, accessories and equipment of whatever nature, whether or not constituting Modifications.

"Penalty Rate" shall mean the higher of (i) 1% per annum in excess of the Prime Rate and (ii) the Overdue Interest Rate.

"Period" shall mean the length of time for which an action or event is stated or otherwise known at its inception to be in existence (determined by the terms of such action or event or the surrounding circumstances), or is expected at its inception to be in existence as determined by an independent engineering consultant or firm having expertise on the subject of coal-fired electric generating plants jointly designated by the Lessor and the Lessee within 10 days after either of them shall request such designation (which the Lessor or the Lessee may do at any time after such action or event occurs) or, if the Lessor and the Lessee are unable to agree on such consultant or firm within such 10-day period, designated by the American Arbitration Association, or any organization successor thereto, within seven days after either the Lessor or the Lessee shall request such organization to do so (which the Lessor or the Lessee may do at any time after the expiration of such 10-day period). Such consultant or firm shall render its determination within 14 days after its designation, which determination shall be conclusive and binding on the Lessor and the Lessee. The obligation to pay the fees and expenses of any such consultant or firm shall be shared equally by the Lessor and the Lessee.

"Permitted Liens" shall mean: (i) the respective rights and interests of the parties to the Transaction Documents, as provided in the Transaction Documents; (ii) the rights of any sublessee or assignee under a sublease or an assignment permitted by the terms of the Lease; (iii) Lessor's Liens, Owner Participant's Liens and Indenture Trustee's Liens; (iv) Liens for Taxes that either are not yet due or are being contested in good faith and by appropriate proceedings diligently conducted, so long as such proceedings do not (a) involve any danger of the foreclosure, forfeiture or loss of the Undivided Interest, the Unit 2 Site Interest or the Easements or any part thereof or interest therein or any substantial danger of the sale of the Undivided Interest or any part thereof or interest therein, (b) interfere with the use, possession or disposition of the Undivided Interest, the Unit 2 Site Interest or the Easements or any part thereof or interest therein or (c) interfere with the payment of Rent; (v) materialmen's, mechanics', workmen's, repairmen's, employees', carriers', warehousemen's and other like Liens relating to the construction of Unit 2 or the Common Facilities or in connection with any Modification or arising in the ordinary course of business for amounts that either are not more than 30 days past due or are being contested in good faith by appropriate proceedings, so long as such proceedings satisfy the conditions for the continuation of proceedings to contest Taxes set forth in clause (iv) above; (vi) Liens of any of the types referred to in clause (v) above that have been bonded for the full amount in dispute (or as to which other security arrangements satisfactory to the Lessor have been made); (vii) Liens arising out of judgments or awards with respect to which appeals or other proceedings for review are being prosecuted in good faith and for the payment of which adequate reserves have been provided as required by generally accepted accounting principles or other appropriate provisions have been made, so long as such proceedings have the effect of staying the execution of such judgments or awards and satisfy the conditions for the continuation of proceedings to contest Taxes set forth in clause (iv) above; (viii) the rights and interests of the Lessee under the Ground Lease and the Rockport Plant Agreements; (ix) the rights of the Rockport Plant Companies (other than the Lessee) under the Rockport Plant Agreements; (x) rights reserved to or vested in any Governmental Authority to condemn or appropriate the Undivided Interest, Unit 2, any Modification, the Unit 2 Site, the Unit 2 Site Interest, the Common Facilities, the Easements, the Rockport Plant Site or the Rockport Plant, or to control or regulate any of the foregoing or the use thereof in any manner; (xi) all restrictions, defects, encumbrances and irregularities in the title to the Undivided Interest, Unit 2, the Unit 2 Site, the Unit 2 Site Interest, the Common Facilities, the Easements, the Rockport Plant Site or the Rockport Plant and other Liens that are specified in the title report delivered to the Participants on the Closing Date pursuant to Section 3.01(gg) of the Participation Agreement; (xii) Liens on the undivided interests in Unit 2 and the Unit 2 Site owned by the Rockport Plant Companies and other Persons (other than the Lessee); (xiii) Liens on Unit 1 and the Unit 1 Site; (xiv) Liens on the Common Facilities, the Easements, the Adjoining Premises and Severable Modifications title to the undivided interest in which is retained by the Lessee as provided in Section 8(d) of the Lease that (a) have been approved by the Owner Participant and a Majority in Interest of Holders of Notes or (b) do not materially impair the use and operation of the Undivided Interest, Unit 2, the Unit 2 Site, the Unit 2 Site Interest, the Common Facilities, the Easements, the Rockport Plant Site

or the Rockport Plant, or materially and adversely affect the value thereof; (xv) Liens on any replacement Part the cost of which does not exceed $25,000,000 for a period not exceeding 90 days from the date such Part is incorporated into Unit 2; (xvi) Liens on any replacement Part the cost of which exceeds $25,000,000 but is less than $35,000,000 for a period not exceeding 30 days from the date such Part is incorporated into Unit 2; and (xvii) other Liens that, in the aggregate, do not materially impair the use of the Undivided Interest, Unit 2, the Unit 2 Site, the Unit 2 Site Interest, the Common Facilities, the Easements, the Rockport Plant Site or the Rockport Plant, or materially and adversely affect the value thereof.

"Person" shall mean any individual, partnership, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

"Pricing Assumptions" shall mean the assumptions set forth in Schedule 3 to the Participation Agreement.

"Prime Rate" shall mean the rate of interest publicly announced from time to time by Citibank, N.A., at its principal office in New York, New York, as its prime or base lending rate. Any change in the Prime Rate shall be effective on the date such change in the Prime Rate is announced.

"Prudent Utility Practice" shall mean, at a given time, any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry prior to such time or any of the practices, methods and acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. *"Prudent Utility Practice"* is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to a spectrum of possible practices, methods or acts having due regard for, among other things, manufacturers' warranties and the requirements of Governmental Authorities and the requirements of the Transaction Documents.

"Purchase Documents" shall mean the Bill of Sale and such other documents as the Owner Participant, the Owner Trustee and the Indenture Trustee shall deem desirable to convey good and marketable title to the Undivided Interest to the Owner Trustee.

"Purchase Price" shall mean an amount equal to the Undivided Interest Percentage of $1,700,000,000.

"Reasonable Basis" for a position shall exist if tax counsel may properly advise reporting such position on a tax return in accordance with Formal Opinion 85-352 issued by the Standing Committee on Ethics and Professional Responsibility of the American Bar Association.

"Refunding Bonds" shall mean any series of bonds of Funding Corporation issued, authenticated and delivered under the Collateral Trust Indenture, as supplemented, if necessary, by a Refunding Supplemental Indenture, the proceeds of which will be used to refund the Initial Series Notes or any Additional Notes.

"Refunding Date" shall mean any date on which Refunding Notes are issued.

"Refunding Loans" shall mean nonrecourse loans made at any time or from time to time to the Owner Trustee to refund Initial Series Notes pursuant to Section 2.06(a) of the Participation Agreement or to refund Additional Notes pursuant to Section 2.06(b) of the Participation Agreement.

"Refunding Notes" shall mean any nonrecourse promissory notes that are issued by the Owner Trustee pursuant to the Indenture on any Refunding Date to refund Notes Outstanding in whole or in part.

"Refunding Supplemental Indenture" shall mean any Collateral Trust Indenture Supplement among the Lessee, Funding Corporation and the Collateral Trust Trustee, supplementing the Collateral Trust Indenture and providing, among other things, for the issuance of Refunding Bonds.

"Registration Statement" shall mean a registration statement, including all exhibits and all documents incorporated in such registration statement by reference, filed with the SEC under the Securities Act in connection with the offer, issue and sale of any Refunding Bonds.

"Regulations" shall mean the income tax regulations issued, published or promulgated from time to time under the Code, or under the Internal Revenue Code of 1954, as amended.

"Renewal Option" shall mean an option to renew the Lease for a Renewal Term.

"Renewal Term" shall mean the Fixed Rate Renewal Term, if any, and any and all Fair Market Renewal Terms.

"Rent" shall mean Basic Rent and Supplemental Rent.

"Rent Differential" shall have the meaning set forth in Section 3(g) of the Lease.

"Requisition of Title" shall mean any circumstance or event in consequence of which Unit 2 or the Undivided Interest, or any portion of the Common Facilities or the Rockport Plant Site the loss of which would significantly interfere with the use of Unit 2, shall be condemned or seized or title thereto shall be requisitioned or taken by any Governmental Authority under power of eminent domain or otherwise.

"Requisition of Use" shall mean any circumstance or event other than a Requisition of Title in consequence of which the use of Unit 2 or the Undivided Interest or any portion of the Common Facilities or the Rockport Plant Site shall be requisitioned or taken by any Governmental Authority under power of eminent domain or otherwise.

"Responsible Officer" shall mean, with respect to the subject matter of any representation, warranty, covenant, agreement or obligation of any party contained in any Transaction Document, the President, or any Vice President, Assistant Vice President, Treasurer, Assistant Treasurer or other officer who in the normal performance of his operational responsibility would have knowledge of such matter and the requirements with respect thereto.

"Retained Assets" shall mean (i) the Lessee's undivided ownership interest in the Rockport Plant other than the Undivided Interest, (ii) the Lessee's undivided ownership interest in the Rockport Plant Site, (iii) the Lessee's undivided ownership interest in the Common Facilities and (iv) Severable Modifications title to the undivided interest in which was not acquired by the Lessor but was retained by the Lessee as provided in Section 8(d) of the Lease.

"Rockport Plant" shall mean the two 1300-megawatt coal-fired electric generating units located on the Ohio River in Spencer County, Indiana, approximately three miles north of the City of Rockport on US Highway 231.

"Rockport Plant Agreements" shall mean the Rockport Plant Operating Agreement, the Unit 2 Operating Agreement, the Owners' Agreement and the Unit Power Agreement.

"Rockport Plant Companies" shall mean AEGCO, I&M and KEPCO.

"Rockport Plant Operating Agreement" shall mean the Operating Agreement for Rockport Steam Electric Generating Units Nos. 1 and 2 dated August 1, 1984, among I&M, AEGCO and KEPCO, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the Participation Agreement.

"Rockport Plant Site" shall mean the approximately 3,293 acres of land on which the Rockport Plant is located, consisting of the Unit 2 Site, the Unit 1 Site and the Adjoining Premises.

"Rule 7D" shall mean Rule 7D (or any comparable successor thereto) of the General Rules and Regulations adopted under the Holding Company Act by the SEC.

"Sale Proceeds" shall mean, with respect to any sale of the Undivided Interest or any part thereof by the Lessor to any Person, the gross proceeds of such sale paid in cash, less all costs and expenses incurred by the Lessor and the Owner Participant in connection therewith.

"SEC" shall mean the Securities and Exchange Commission of the United States of America or any successor agency.

"Section 6(c) Application" shall mean Funding Corporation's Application for an Order under Section 6(c) of the Investment Company Act of 1940 exempting Funding Corporation from all provisions of such Act, as filed with the SEC and as the same may be amended, modified and supplemented from time to time.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Securities Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Severable Modification" shall mean any Modification that either (i) can be removed from Unit 2 without materially damaging Unit 2 or materially diminishing the value or utility of Unit 2, or (ii) constitutes a flue gas desulfurization system or other pollution-control equipment of comparable expense that is required by Applicable Law, whether or not such system or other equipment can be removed from Unit 2 without materially damaging Unit 2 or materially diminishing the value, utility or useful life of Unit 2.

"Special Severable Modifications" shall have the meaning set forth in the Ground Lease.

"Standard & Poor's" shall mean Standard & Poor's Corporation and any successor that issues nationally accepted securities ratings.

"Stipulated Loss Value", as of any Basic Rent Payment Date during the Basic Lease Term, shall mean the percentage of Lessor's Cost set forth opposite such date in Schedule 2 to the Lease. Anything contained in the Participation Agreement or the Lease to the contrary notwithstanding, Stipulated Loss Value, when added to all other amounts that the Lessee is required to pay under Section 9(c) of the Lease or under any other provision requiring the payment of Stipulated Loss Value, under any circumstances and in any event, shall be in an amount at least sufficient to pay in full, as of the date of payment, the aggregate unpaid principal amount of and premium, if any, payable on all Notes Outstanding at the close of business on such date, together with accrued and unpaid interest on such Notes. Stipulated Loss Value as of any Basic Rent Payment Date during any Renewal Term shall mean an amount equal to the lesser of (a) 25% of Lessor's Cost and (b) the Fair Market Sales Value of the Undivided Interest as of the first day of such Renewal Term, after deducting from such amount depreciation to such Basic Rent Payment Date calculated on a straight-line basis from the first day of such Renewal Term to the end of the estimated useful life of Unit 2.

"Supplemental Financing" shall mean a financing of the Supplemental Financing Amount of Modifications effected pursuant to Section 8(e) of the Lease.

"Supplemental Financing Amount" shall mean that portion of the Undivided Interest Percentage of the cost of a Modification financed by the Owner Participant through the Lessor pursuant to Section 8(e) of the Lease which exceeds the amount of the related Additional Equity Investment of the Lessor, if any.

"Supplemental Rent" shall have the meaning set forth in Section 3(b) of the Lease.

"Surviving Lessee" shall have the meaning specified in Section 6.01(d)(ii)(A) of the Participation Agreement.

"Tax" or *"Taxes"* shall mean any and all fees (including, without limitation, documentation, recording, license and registration fees), taxes (including, without limitation, net income, franchise, value added, ad valorem, gross income, gross receipts, sales, use, property (personal and real, tangible and intangible) and stamp taxes), levies, imposts, duties, charges, assessments or withholdings of any nature whatsoever, general or special, ordinary or extraordinary, together with any and all penalties, fines, additions to tax and interest thereon.

"Tax Affiliate" shall mean any Affiliate of or any shareholder of any Person, or any Person related to another Person within the meaning of Section 318 of the Code.

"Tax Assumptions" shall mean the assumptions set forth in Section 2 of the Tax Indemnification Agreement with respect to the Federal and state income tax consequences of the transactions contemplated by the Transaction Documents.

"Tax Indemnification Agreement" shall mean the Tax Indemnification Agreement (AEGCO Trust 1) dated as of March 15, 1989, between the Lessee and the Owner Participant, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof.

"Termination Date" shall have the meaning set forth in Section 14(a) of the Lease.

"Termination Event" shall mean any early termination of the Lease in accordance with Section 14 thereof.

"Termination Notice" shall have the meaning set forth in Section 14(a) of the Lease.

"Termination Value", as of any Basic Rent Payment Date during the Basic Lease Term, shall mean the percentage of Lessor's Cost set forth opposite such date in Schedule 3 to the Lease. Anything contained in the Participation Agreement or the Lease to the contrary notwithstanding, Termination Value, when added to all other amounts which the Lessee is required to pay under Section 9(d) of the Lease or under any other provisions of the Lease that require the payment of Termination Value, under any circumstances and in any event, shall be in an amount at least sufficient to pay in full, as of the date of payment, the aggregate unpaid principal amount of and premium, if any, payable on all Notes Outstanding at the close of business on such date, together with accrued and unpaid interest on such Notes. Termination Value as of any Basic Rent Payment Date during any Renewal Term shall mean an amount equal to the lesser of (a) 25% of Lessor's Cost and (b) the Fair Market Sales Value of the Undivided Interest as of the first day of such Renewal Term, after deducting from such amount depreciation to such Basic Rent Payment Date calculated on a straight-line basis from the first day of such Renewal Term to the end of the estimated useful life of Unit 2.

"The Connecticut National Bank" shall mean The Connecticut National Bank, a national banking association, in its individual capacity, and its successors and assigns.

"Transaction Documents" shall mean the Participation Agreement, the Lease, the Ground Lease, the Trust Agreement, the Indenture, the Tax Indemnification Agreement, each Purchase Document and the Notes.

"Transaction Expenses" shall have the meaning set forth in Section 9.01 of the Participation Agreement.

"Transfer" shall mean the transfer, by bill of sale or otherwise, by the Lessor of all the Lessor's right, title and interest in and to the Undivided Interest, the Unit 2 Site Interest and the Easements and under the Bill of Sale, the Ground Lease and the Unit 2 Operating Agreement on an "as is, where is with all faults" basis, free and clear of all Lessor's Liens and Owner Participant's Liens (but subject to the Lien of the Indenture if and to the extent it attaches) and free and clear of the Owner

Participant's beneficial interest therein but otherwise without recourse, representation or warranty, together with the due assumption by the transferee of, and the due release of the Lessor from, all the Lessor's obligations under the Ground Lease and the Unit 2 Operating Agreement by an instrument or instrument satisfactory in form and substance to the Lessor and the Owner Participant.

"Transferee" shall have the meaning set forth in Article VIII of the Participation Agreement.

"Transmission Facilities" shall have the meaning set forth in the Ground Lease.

"Trust" shall mean the trust created by the Trust Agreement.

"Trust Agreement" shall mean the Trust Agreement (AEGCO Trust 1) dated as of March 15, 1989, between the Owner Participant and Wilmington Trust Company, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the Indenture and the Participation Agreement.

"Trust Estate" shall have the meaning set forth in Section 2.02 of the Trust Agreement.

"Trust Indenture Act" shall mean the Trust Indenture Act of 1939, as amended and as the same may be further amended, or any comparable successor Applicable Law.

"Trustee's Expenses" shall mean any and all liabilities, obligations, costs, compensation, fees, expenses and disbursements (including, without limitation, reasonable legal fees and expenses) of any kind and nature whatsoever (other than such amounts as are included in Transaction Expenses) which may be imposed on, incurred by or asserted against the Indenture Trustee or any of its agents, servants or personal representatives, in any way relating to or arising out of the Indenture, the Lease Indenture Estate, the Participation Agreement or the Lease, or any document contemplated thereby, or the performance or enforcement of any of the terms thereof, or in any way relating to or arising out of the administration of the Lease Indenture Estate or the action or inaction of the Indenture Trustee under the Indenture; *provided, however,* that such amounts shall not include any Taxes or any amount expressly excluded from the Lessee's indemnity obligation pursuant to Section 7.01 of the Participation Agreement.

"UCC" or *"Uniform Commercial Code"* shall mean the Uniform Commercial Code as in effect in any applicable jurisdiction.

"Underwriting Agreement" shall mean an agreement among Funding Corporation, the Lessee and the underwriter or underwriters for any Refunding Bonds, relating to the purchase, sale and delivery of such Refunding Bonds.

"Undivided Interest" shall mean an undivided ownership interest in Unit 2, the percentage of which equals the Undivided Interest Percentage; the owner of the Undivided Interest shall be a tenant-in-common with the owners (including the Lessee, if it should be such an owner) of all other undivided interests in Unit 2. Where the context so requires, Undivided Interest includes an appropriate portion of "Total Net Capability of Unit 2" and "Total Net Generation of Unit 2" under, and as defined in, the Operating Agreement.

"Undivided Interest Percentage" shall mean 25.0000%.

"Uniform System of Accounts" shall mean the Uniform System of Accounts prescribed for Public Utilities and Licensees subject to the provisions of the Federal Power Act (Class A and Class B), 18 C.F.R. 101, as in effect on the Contract Date, as the same may be amended from time to time after such date.

"Unit 1" shall have the meaning set forth in the Ground Lease.

"Unit 1 Permitted Encroachments" shall have the meaning set forth in the Ground Lease.

"Unit 1 Shared Facilities" shall have the meaning set forth in the Ground Lease.

"Unit Power Agreement" shall mean the Unit Power Agreement dated as of March 31, 1982, between I&M and AEGCO, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the Participation Agreement.

"Unit 2" shall mean the 1300-megawatt coal-fired electric generating unit constituting part of the Rockport Plant which is commonly known as Unit 2, consisting of (a) all structures, systems, facilities, improvements and related equipment located on, under or above the Unit 2 Site, including the Unit 2 Shared Facilities but excluding Common Facilities, Transmission Facilities and Unit 1 Permitted Encroachments, (b) all Unit 2 Permitted Encroachments and (c) all Modifications except those to which the Lessee retains title as provided in Section 8(d) of the Lease, regardless of when such property is or was acquired, constructed or installed. Unit 2 is more particularly described in Exhibit A to the Lease.

"Unit 2 Operating Agreement" shall mean the Unit 2 Operating Agreement to be entered into on or about the Closing Date among the Operator, the Lessee, the Owner Trustee and the other parties named therein, substantially in the form attached to the letter dated as of March 15, 1989 from the Lessee to the Owner Participant, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the Participation Agreement.

"Unit 2 Permitted Encroachments" shall have the meaning set forth in the Ground Lease.

"Unit 2 Site" shall have the meaning set forth in the Ground Lease.

"Unit 2 Site Interest" shall mean the undivided interest in the Unit 2 Site leased to the Lessor pursuant to the Ground Lease.

"Unit 2 Shared Facilities" shall have the meaning set forth in the Ground Lease.

"Wilmington Trust Company" shall mean Wilmington Trust Company, a Delaware banking corporation, in its individual capacity, and its successors and assigns.